



# THE FY 2004 ANNUAL PERFORMANCE PLAN

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# FY 2004 ANNUAL PERFORMANCE PLAN



## CFTC Mission Statement and Agency Goals

### Mission Statement

*The mission of the Commodity Futures Trading Commission is to protect market users and the public from fraud, manipulation, and abusive practices related to the sale of commodity futures and options, and to foster open, competitive and financially sound commodity futures and option markets.*

### Goal One

#### ***Protect the economic functions of the commodity futures and option markets.***

#### Outcome Objectives

1. Foster futures and option markets that accurately reflect the forces of supply and demand for the underlying commodity and are free of disruptive activity.
2. Oversee markets that can be used effectively by producers, processors, financial institutions, and other firms for the purposes of price discovery and risk shifting.

### Goal Two

#### ***Protect market users and the public.***

#### Outcome Objectives

1. Promote compliance with, and deter violations of, Federal commodities laws.
2. Require commodities professionals to meet high standards.
3. Provide a forum for effectively and expeditiously handling customer complaints against persons or firms registered under the Commodity Exchange Act.

### Goal Three

#### ***Foster open, competitive and financially sound markets.***

#### Outcome Objectives

1. Ensure sound financial practices of clearing organizations and firms holding customer funds.
2. Promote and enhance effective self-regulation of the commodity futures and option markets.
3. Facilitate the continued development of an effective, flexible regulatory environment responsive to evolving market conditions.
4. Promote markets free of trade practice abuses.

## \$88.4 Million Budget Estimate by Agency Goal

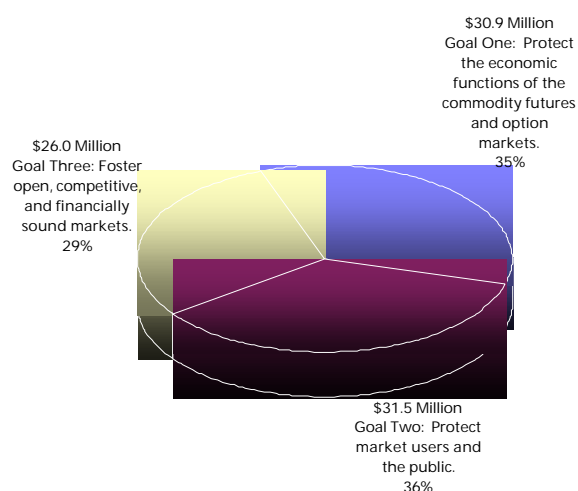


Figure 1: Budget Estimate by Agency Goal

## Ranking of Commission Outcome Objectives By Dollars Budgeted

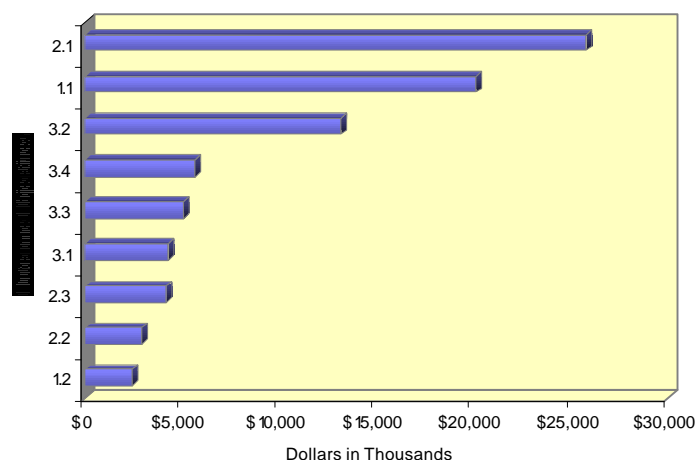


Figure 2: Ranking of Commission Outcome Objectives by Dollars Budgeted

- |                   | <u>Outcome Objective</u>                                                                                                                                              |
|-------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2.1 <sup>1/</sup> | Promote compliance with, and deter violations of, Federal commodities laws.                                                                                           |
| 1.1               | Foster futures and option markets that accurately reflect the forces of supply and demand for the underlying commodity and are free of disruptive activity.           |
| 3.2               | Promote and enhance effective self-regulation of the commodity futures and and option markets.                                                                        |
| 3.4               | Promote markets free of trade practice abuses.                                                                                                                        |
| 3.3               | Facilitate the continued development of an effective, flexible regulatory environment responsive to evolving market conditions.                                       |
| 3.1               | Ensure sound financial practices of clearing organizations and firms holding customer funds.                                                                          |
| 2.3               | Provide a forum for effectively and expeditiously handling customer complaints against persons or firms registered under the Commodity Exchange Act.                  |
| 2.2               | Require commodities professionals to meet high standards.                                                                                                             |
| 1.2               | Oversee markets that can be used effectively by producers, processors, financial institutions, and other firms for the purposes of price discovery and risk shifting. |

<sup>1/</sup> Denotes Goal Two, Outcome Objective One. (See page 5.)

## Goal One: Protect the economic functions of the commodity futures and option markets.

Total FY 2004 Budget: \$30,903,000 185 FTEs  
Total Change from FY 2003: \$+7,700,000 14 FTEs

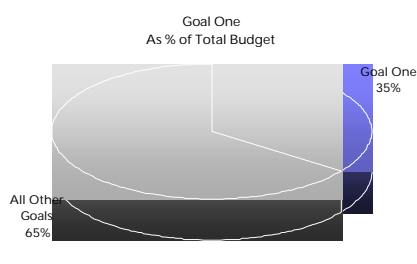


Figure 3: Goal One—As Percentage of Total Budget

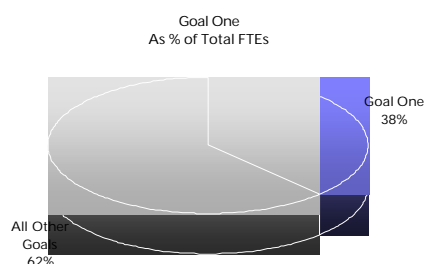


Figure 4: Goal One—As Percentage of Total FTEs

<b>Goal One: Protect the economic functions of the commodity futures and option markets.</b>	
<b>Outcome Objective</b>	<b>Activity</b>
1. Foster futures and option markets that accurately reflect the forces of supply and demand for the underlying commodity and are free of disruptive activity.	<ol style="list-style-type: none"> <li>1. Collect U.S. futures and option large trader and exchange-generated reports for all actively trading contracts to support market surveillance, enforcement of speculative limits, dissemination of information to the public, and futures market studies and research by Commission staff and others.</li> <li>2. Monitor the markets to detect and respond quickly to potentially disruptive situations such as market congestion and/or potential price manipulation.</li> <li>3. Conduct timely review of contract market designation applications and changes to applications to determine if they are economically viable and do not pose a likelihood of disruption in the cash, futures, and option markets.</li> <li>4. Identify possible manipulation and other abusive trading practices for investigation and possible enforcement or criminal action.</li> <li>5. Investigate possible manipulation and other abusive trading practices.</li> <li>6. Institute enforcement cases concerning manipulation and other abusive trading practices.</li> <li>7. Sanction violators.</li> <li>8. Conduct timely reviews of exchange requests for approval of products or rule changes to determine if they are economically viable and do not pose a likelihood of disruption in the cash, futures, and option markets.</li> <li>9. Conduct reviews of products and rule changes submitted under certification procedures to support market surveillance, enforcement of speculative limits, and to determine if the contracts are viable and pose a likelihood of disruption in the cash, futures, and option markets.</li> <li>10. Conduct reviews of exempt markets and monitor the markets consistent with statutory requirements.</li> </ol>
2. Oversee markets that can be used effectively by producers, processors, financial institutions, and other firms for the purposes of price discovery and risk shifting.	<ol style="list-style-type: none"> <li>1. Participate in the President's Working Group on Financial Markets to ensure coordination of information and efforts among U.S. financial regulators.</li> <li>2. Maintain a current understanding of market functions and developments through studies and research.</li> <li>3. Provide materials and information on the functions and utility of the markets to the public through public Commission meetings, through public roundtables, advisory committee meetings, symposia, Commission input to U.S. Department of Agriculture publications, routine reports on large</li> </ol>

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	trader activity, etc.
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## Goal One: FY 2003 & FY 2004 Plan by Program

### Market Oversight

The Commission anticipates that its new regulatory structure for exchanges and other trading systems will encourage rapid growth in the number of entities trading futures and options in the U.S. as well as an increased number of innovative futures and option contracts in nontraditional commodity areas. New and existing U.S. exchanges will list new products for trading in their efforts to compete with foreign exchanges and to meet the hedging and price-discovery needs of firms participating in the electronic business-to-business marketplace. Moreover, a significant number of these new markets may seek Commission recognition as contract markets in security futures or as derivatives transaction execution facilities (DTEFs). The Commission expects the number of active futures and option markets requiring surveillance to increase from 256 in FY 2002 to 330 in FY 2003 and 350 in FY 2004. Most of these new contracts will be security futures and energy futures. Many new exchanges will trade contracts only on electronic systems or simultaneously through electronic and open outcry systems. Industry efforts to integrate financial cash market trading and over-the-counter (OTC) derivatives trading through common electronic trading platforms or other mechanisms will increase the importance of a surveillance effort that examines the relationship between futures and option contracts and the underlying commodity or market instrument. In view of the resource limitation imposed by an FTE allocation at the level of 50 for the surveillance subprogram for FY 2004, the Market Oversight program anticipates that surveillance economists will produce 1,850 weekly surveillance sheets in FY 2004 as compared to 1,826 in FY 2002.

### Streamlining Large Trader Reporting

In FY 2000, the Commission introduced its reengineered computer system that supports market surveillance. Enhancements to that system continued in FY 2002. Additional capability was added in order to support new types of contracts, such as security futures products (SFPs). The anticipated growth in U.S. futures and option trading, particularly from security futures contracts, will increase significantly the volume of surveillance data that this system must process. Surveillance data on security futures contracts traded at securities exchanges and large trader positions carried at broker-dealers will have to be incorporated into the Commission surveillance data systems. In order to maintain adequate computer system processing speed for this growth in data, modifications are being made to system hardware and software architecture. Staff time will be devoted to assuring that these data are received and processed in an accurate and timely manner. Surveillance staff also will continue testing and modifying, as appropriate, enhancements to the core elements of the new surveillance computer system. It is anticipated that most large trader reporting system enhancements to accommodate security futures will be completed before FY 2004.

### Review of Commission Regulations

The Commission will continue a broad review of its regulations to eliminate rules made obsolete by the recent amendments to the Commodity Exchange Act (CEA) and the rules promulgated to implement the Commodity Futures Modernization Act (CFMA). It will also review its rules to further streamline and coordinate regulations across markets. The review is being conducted under the

leadership of the Market Oversight program with representatives from all program areas of the Commission. In FY 2002, the Market Oversight program plans to take a leadership role in implementing further regulatory reforms adopted by the Commission.

#### New Contract Market Filings and Rule Amendments

As a result of ongoing changes in technology, including advances in electronic trading and the use of the Internet for executing business-to-business commercial transactions and the introduction of trading in single-stock futures, the number of derivatives exchanges is expected to grow, consisting of designated contract markets and DTEFs as well as exempt markets. These new exchanges, as well as existing exchanges, are developing derivatives products based on various nontraditional “commodities,” including diverse tangible commodities, services, and indexes of commercial or economic activity and events. Exchanges also continue to innovate by developing new SFPs.

In view of these considerations, nine new exchanges are expected to file with the Commission during FY 2004 for approval as contract markets or DTEFs, and nine entities are expected to notify the Commission as exempt markets. In addition, 39 new contracts are projected to be filed with the Commission under the certification procedures, with 12 requests for approval of products. This projection is based on: 1) the existing and prospective exchanges’ continuing interest and competition in developing innovative futures and option contracts in the financial, physical commodity, and other sectors; 2) the prospects for joint ventures between existing exchanges and business-to-business facilities to develop derivatives markets; 3) the introduction of single-stock futures trading; and 4) the tendency to establish option contracts on futures that have traded successfully. In addition, 275 rule changes are projected to be submitted during FY 2003 under certification procedures, with an additional 18 of those filings submitted for approval. These will include a number of significant changes to existing rules to reflect changing conditions in the underlying cash markets. Finally, eight exempt market filings are projected to be reviewed in FY 2003.

In addition, 300 economically significant rule changes are expected to be submitted during FY 2004. These will include a number of significant changes to existing rules to maintain conformity with changing cash market practices. The trend toward development of new innovative products will continue through FY 2003 and FY 2004. Finally, the number of non-product-related rule changes are expected to increase in FY 2004 as contract markets and DTEFs continue to establish new automated trading systems and innovative market structures.

#### Clearing & Intermediary Oversight

##### Oversight and Emergency Management of Market Volatility

During FY 2003 and FY 2004, the Clearing and Intermediary Oversight program will monitor major market moves in an attempt to identify and respond to potentially disruptive situations that adversely affect the financial condition of the market or market participants. Program staff will work on a case-by-case basis to develop appropriate, innovative, and pragmatic responses to such market events. Areas of focus during FY 2003 and FY 2004 may include: 1) systemic risk issues; 2) changes in the markets that further link cash and derivatives (on-exchange and off-exchange); 3) cross-border trading; and 4) growth in the number of automated trading systems.



During FY 2003 and FY 2004, the Clearing and Intermediary Oversight program will work internally and with the industry to review contingency plans, improve communications, and assess best practices in light of the lessons learned from the events of September 11, 2001.

#### Information Efforts on the Functions and Utility of the Markets

During FY 2003 and FY 2004, the Clearing and Intermediary Oversight program will continue to support the President's Working Group on Financial Markets, participate in Commission advisory committee efforts, and expand its role in both interagency and private sector intermarket coordination activities. The Clearing and Intermediary Oversight program and the Office of International Affairs (OIA) will coordinate Commission efforts with those of foreign regulators and professional organizations in the areas of accounting, capital, market surveillance, and financial compliance, with particular focus upon linkages, full service financial firms, and new products.

#### Enforcement

The Enforcement program anticipates that challenges to the proper economic functioning of futures and option markets presented by manipulative and abusive trading practices will require an increased level of resources for investigation and litigation. Domestic and foreign markets are becoming increasingly interrelated, and that trend will continue for the foreseeable future as technology develops, regulatory barriers are eliminated, and formal links are established between markets. Changes in the regulatory and technological environment for exchanges will facilitate trading by institutional market participants. These regulatory and technological changes will enable traders to employ complex strategies more easily and could permit abusive conduct in one market to cause greater harm in other, related markets. The Commission has identified such potential wrongdoing in the energy markets, for example, and has launched several large-scale investigations. Accordingly, the Enforcement program expects to increase its investigations of disruptive or potentially disruptive market situations in order to address price manipulation and fraudulent trading practices.

Manipulation and trade practice investigations and cases tend to be among the most complex and resource-intensive matters handled by Enforcement staff for several reasons: 1) staff must become experts in understanding complex trading strategies and the intricacies of the underlying cash markets; 2) investigations require detailed reconstruction of trading using voluminous records; and 3) assistance sometimes is required from foreign regulators. The total number of such matters that are active at any one time may be relatively small, but the scale of such investigations is disproportionately large. Current developments indicate that Enforcement staff will continue to be called upon to investigate and prosecute a number of such cases during FY 2003 and FY 2004. Notably, although the goals discussed herein are numbered, they are not ranked in order of priority.

#### Office of Chief Economist

##### Research on Market Functions and Developments

In FY 2003 and FY 2004, staff of the Office of the Chief Economist (OCE) will continue to examine the alternative execution procedures in futures markets. This will include comparison of the liquidity and price discovery of open-outcry

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systems versus electronic trading systems with supporting details on related economic theories and empirical evidences. This effort should provide valuable input in formulating policy proposals by Commission staff.

OCE staff also will provide economic and statistical analyses to the Enforcement program on a number of cases.

### **Derivative Risk Management and Risk-Based Capital Requirements**

The rapid growth of derivative markets has dramatically increased the potential impact of derivatives on the stability of international and domestic financial markets. Derivative risk management and risk-based capital requirements are the major tools to maintain the financial integrity of futures and option markets and reduce systemic risk of the financial markets. In FY 2003 and FY 2004, OCE staff will continue to examine the following risk management and risk-based capital issues: 1) research on analytic models for analyzing, measuring, and monitoring futures market risk and liquidity risk and major issues in implementing a market risk measurement system; 2) alternative models on risk-based capital requirements and quantitative methods for evaluating the adequacy of capital requirements; and 3) research on evaluation of risk-based margin systems, including the Standard Portfolio Analysis of Risk Margin Systems (SPAN) for futures and options on futures and the Theoretical Intermarket Margin System (TIMS) for options on equities.

### **Office of Proceedings**

The Office of Proceedings will hear and decide administrative enforcement cases brought by the Commission during FY 2003 and FY 2004.

### **Office of the General Counsel**

#### **Contract Market Designation Applications**

The Office of the General Counsel (OGC) will continue to review for legal sufficiency and conformance with the CEA and Commission policy and precedent contract market designation applications as well as applications for registration as DTEFs and derivatives clearing organizations (DCOs).

#### **Manipulation and Other Abusive Trading Practices**

OGC will continue to review all proposed enforcement actions alleging manipulation and other abusive trading practices to assure their legal sufficiency and conformance with general Commission policy and precedent.

#### **Coordination of Information and Efforts Among U.S. Regulators**

OGC will continue to coordinate with other members of the President's Working Group on Financial Markets on issues as necessary.

#### **Providing Information on the Functions and Utility of the Markets through Public Meetings**

OGC will continue to provide the Commission with guidance on both procedural and substantive matters in connection with the public meetings of its three advisory committees—the Agricultural Advisory Committee, the Global Markets Advisory Committee, and the Technology Advisory Committee—and all other public Commission meetings.

## Executive Direction & Support

### Agency Direction

The increasing global electronic integration of the commodity futures and option markets requires the entire international regulatory community to cooperate as technology increases significantly cross-border trading volume, cross-market participation, and cross-border exchange combinations. OIA will coordinate with regulators throughout the world to: 1) facilitate cross-border business through the elimination of unnecessary legal and practical impediments; 2) enhance customer and market protections through cooperative arrangements; and 3) encourage market discipline through enhanced transparency.

### Administrative Management & Support

In FY 2003 and FY 2004, the Office of Information Resources Management (OIRM) will further enhance the capabilities of the Integrated Surveillance System (ISS) used by the Market Oversight program to conduct daily surveillance of the futures and option markets.

## Support Strategies to Address Goal One Management Challenges

### Goal One: Support Issue/Management Challenge #1

Enhance and integrate the Commission's market surveillance and financial surveillance capacity. This need is especially critical because of the greater complexity of instruments being traded and the concentration of pooled investment vehicles.

#### Support Strategy

The Market Oversight program staff will continue to enhance its surveillance systems. In particular, program staff will continue to rely on improved end-user computerization tools and the development of client-server database management software as such systems are implemented by OIRM.

### Goal One: Support Issue/Management Challenge #2

Develop understanding of complex trading systems from a technological perspective, specifically the architecture of these systems and the challenges they present from a monitoring and compliance perspective.

#### Support Strategy

The Market Oversight program has consulted and will continue to consult with OIRM concerning an initial review of these proposed trading systems so that before these systems can be made available from within the U.S., appropriate safeguards are in place to protect market users and the public. The Clearing and Intermediary Oversight program does not intend to restrict technological innovation or dictate particular choices of hardware or software, rather it intends to assure that these mechanisms are operated consistently with the Act and rules promulgated thereunder.

### Goal One: Support Issue/Management Challenge #3

Enhance staff skills in conducting audits and analyses to detect systemic problems and/or problems of individual registrants, particularly as products become more complex.

#### Support Strategy

The Clearing and Intermediary Oversight program staff will continue to encourage staff to use external sources for professional training and computer support. Professional training will focus on off-exchange and derivatives products. Computer training will provide staff with computer alternatives to manual methods of analysis.

### Goal One: Support Issue/Management Challenge #4

Provide opportunities for attorneys and investigators to train and gain experience to meet the challenge of a changing trading environment.

#### Support Strategy

Through its annual training plan, the Office of Human Resources (OHR) will assist program offices in assessing the need for training and professional devel-

opment of Commission employees and in finding ways to address those needs. OHR has also enhanced information on employee training opportunities through the Internet and intranet and by providing a Commission-wide training.

During FY 2002, the Enforcement program devoted significant resources and time to develop and implement in-house training in deposition skills for newer staff members and to provide intensive training in legal writing to professional staff in the Enforcement program. During FY 2002, the Enforcement program provided additional guidance to staff regarding developments in the law under the Electronic Communications Privacy Act and the Right to Financial Privacy Act, including changes effected by the USA PATRIOT Act. The Enforcement program also developed Officer of the Day Guidelines to assist staff members in handling calls from the public. The guidelines will enhance the tracking of and responsiveness to customer complaints concerning particular persons or firms.

Goal One: Support Issue/Management Challenge #5

Use information technology to collect daily electronic large trader reports from brokerage firms worldwide and other large volumes of data from U.S. futures exchanges in the most efficient, cost-effective, and secure method feasible.

Support Strategy

OIRM will evaluate the Commission's communications software and computer hardware in relation to the needs of brokerage firms and exchanges for a fast, efficient, and secure means of transmitting large quantities of confidential data to the Commission on a daily basis. These data flow into the newly developed ISS that supports the Commission's Market Oversight program with client-server architecture.

The Office of Financial Management (OFM) will provide technical advice and guidance for the effective use of resources in support of the Commission's communications software and hardware needs, including the ISS.

Goal One: Support Issue/Management Challenge #6

For the staff of the Market Oversight, develop the skills needed to more effectively utilize the new ISS.

Support Strategy

OIRM or contractor support will be needed to provide training in Microsoft Access, PC-SAS, or other software that will enable surveillance economists, statisticians, and other surveillance staff to extract data from the overall surveillance database. This will enable staff to address specific questions, conduct analyses, and provide graphical, tabular, and other summaries of the surveillance data in formats that are easily understood using software such as Microsoft Excel or PowerPoint.

OFM will provide cost management support to the program to assist management in determining how support for its training needs will best be met.

Goal One: Support Issue/Management Challenge #7

Prioritize and provide information technology support for mission-related activities, particularly for the Market Oversight program, to compensate for limited mission program and information technology staffing.

*Support Strategy*

The Executive Management Council (EMC) prioritizes the Commission's major information technology investments to ensure that the available resources are used to provide the greatest corporate value to the Commission. The limited mission program staffing provides opportunities for the EMC to reevaluate the utility of strategic investments and adjust resource allocations to balance immediate and long-term needs.

As a non-voting member of the EMC, OFM's chief financial officer provides advice and financial status reporting that assists in developing strategies and allocating and utilizing the Commission's resources for information technology that support the its program missions. OFM's information technology applications provide the basis for financial status reporting to the EMC and the agency's program mission. These applications include the Commission's financial management system, travel management system, resources and performance measurement system, and the U.S. Treasury Department financial application systems.

Although these systems provide valuable data to the EMC and the Commission for developing budgetary strategies for information technology investments, as well as allocating and utilizing the Commission's resources, OFM is suffering from reduced staffing and allocation of its staffing resources to support its information technology applications. Without increases in financial management and information technology staffing to fully utilize these applications, upgrades and enhancements in support of program missions will not be accomplished. For example, during FY 2002, OFM began reviewing its travel management application to determine how efficiencies in speed and productivity can be achieved, including the development of an electronic interface to the Commission's financial management system.

In FY 2004, OFM plans to implement the electronic interface between the two systems. In addition, OFM plans to train Commission purchase cardholders to use a newly developed bankcard interface process and to design and implement a process in the financial management system to produce contracts and purchase orders that simultaneously obligate the transactions. In FY 2004, OFM plans to develop and implement a process for integrating property management into the financial management system. All of these improvements will streamline workflow and reduce program staffing support

Goal One: Support Issue/Management Challenge #8

Provide robust support for the Federal information technology management process to support the Commission's mission.

*Support Strategy*

Operational management of the Commission's information technology program is executed by a team of experienced professional information technology managers who draw on the existing information technology staff for business-related information. The chief information officer, with the support of OIRM, is focused on strategic planning, enterprise architecture development, and information technology security management. The Commission plans to procure services to develop a living document of the Commission's enterprise architecture and an in-depth independent security assessment in FY 2003 and FY 2004. Future strategic planning initiatives will be a priority for the EMC and the Commission's information technology program.

Goal One: Support Issue/Management Challenge #9

Develop staff skills to manage information technology and provide information technology-based support for the Commission's mission.

Support Strategy

Support for the Federal information technology management process is a Commission priority. The Commission will provide strategic planning information technology staff and the information technology management staff with access to seminars and other training opportunities to ensure robust support for Federal information technology management. In addition, contract resources will be used to supplement internal resources.

Driving the Commission's technical environment are evolving Web-services standards and tools, increasingly complicated infrastructure capabilities, such as wireless access and voice/data convergence, and prospective new technical capabilities, such as Web portal technology and content management. For the Commission to adapt to these technical challenges, the information technology staff must acquire new skills. At the same time, staff must retain the familiarity with the business of the Commission. For this reason, the Commission will balance the need for immediate access to necessary skill sets that can be met through hiring with the need for maintenance of the skill sets of long-time employees that can be met through training.

Goal One: Support Issue/Management Challenge #10

Modernize the Commission's mission support applications to reflect the new requirements based on the CFMA, in particular the EDBS.

Support Strategy

Development of an enterprise architecture provides a basis for the EMC's investment planning. The EMC introduced the use of "integrated project teams" (IPTs) to insure that the needs of all program offices are considered in the information technology investment process. The EMC expects to continue its program of enhancing the value of information technology to program offices and of reducing the complexity of its technical support requirements by replacing its oldest mission support applications with newer applications based on evolving technology. The acquisition of a Litigation Support System is the Commission's first project based on the IPT concept. The system is expected to provide enhanced support for the Commission's goals and objectives. In each case, OIRM staff will need to acquire sufficient familiarity with the selected technology to support each new implementation effort. The EDBS redesign will require that the Commission add project management staff to ensure that the investment is efficiently managed.

Goal One: Support Issue/Management Challenge #11

Establish an information security program compliant with the Government Information Security Reform Act of 2000 (GISRA) to support mission activities.

Support Strategy

GISRA codifies Office of Management and Budget's (OMB) security policy, emphasizing agency security responsibilities and promulgating new reporting requirements, including annual agency program reviews, annual inspector general evaluations, and an annual OMB report to Congress. OMB has prepared a framework for conducting security assessments and a revision to its Circular A-130 on implementing the GISRA responsibilities. In FY 2003, the information technology security administration will have dedicated resources and staff committed to building a viable security program for the Commission. OIRM in-

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tends to initiate a security assessment project and security program development in FY 2003 and 2004, with the information technology security officer providing project management and technical review of the efforts of an outside contractor. The assessment and program development will be based on the OMB framework and National Institute for Standards and Technology (NIST) technical guidance.



## Working Relationships in Support of Goal One

### *President's Working Group on Financial Markets*

Commission staff coordinate initiatives on contingency planning for market emergencies and participate in biweekly conference calls with the staff of the President's Working Group on Financial Markets, which includes representatives of the SEC, the U.S. Treasury Department, the Board of Governor's of the Federal Reserve System and the New York Fed.

### *Information Sharing with Other Financial Regulators*

Commission staff routinely share confidential surveillance information, via bi-weekly telephone calls and information disseminated during Commissioners' weekly market surveillance briefings, with the other Federal financial regulators, such as the SEC, the U.S. Treasury Department, Federal Reserve Board, Federal Deposit Insurance Corporation (FDIC), the USDA's Grain Inspection/Packers and Stockyards Administration, the Department of Energy's Energy Information Agency, and the FERC.

### *U.S. Department of Agriculture*

Commission staff work on risk management education efforts with the Steering Committee of the USDA Risk Management Agency and the Cooperative State Research, Education, and Extension Service. The Commission participates in risk management education seminars and conferences and reviews USDA-produced educational materials.

### *Agriculture Advisory Committee*

A vital link to the agriculture community that depends on futures and option markets for hedging and price discovery.

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Table 1: Goal One—Summary of Request by Program

	FY 2003		FY 2004		Change	
	\$ (000)	FTE	\$ (000)	FTE	\$ (000)	FTE
Market Oversight	\$9,062	73	\$10,087	68	\$1,025	-5
Clearing & Intermediary Oversight	577	4	711	4	134	0
Chief Economist	1,239	8	1,274	7	35	-1
Enforcement	3,560	24	7,902	43	4,342	19
Proceedings	0	0	0	0	0	0
General Counsel	1,149	7	1,455	8	306	0
Executive Direction & Support	7,616	55	9,474	55	1,858	1
<b>TOTAL:</b>	<b>\$23,203</b>	<b>171</b>	<b>\$30,903</b>	<b>185</b>	<b>\$7,700</b>	<b>14</b>

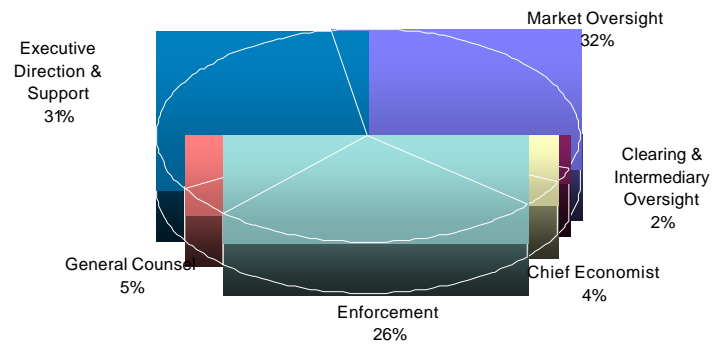


Figure 5: Goal One—FY 2004 Budget Dollars by Program

## FY 2004 Annual Performance Plan

Table 2: Goal One—Summary of Request by Outcome Objective

	FY 2003		FY 2004		Change	
	\$ (000)	FTE	\$ (000)	FTE	\$ (000)	FTE
<b>GOAL ONE: Protect the economic functions of the commodity futures and option markets.</b>						
<b>Outcome Objectives</b>						
1.1 Foster futures and option markets that accurately reflect the forces of supply and demand for the underlying commodity and are free of disruptive activity.	\$19,811	147	\$26,839	161	\$7,028	14
1.2 Oversee markets that can be used effectively by producers, processors, financial institutions and other firms for the purposes of price discovery and risk shifting.	3,392	24	4,064	23	672	0
<b>Total Goal One</b>	<b>\$23,203</b>	<b>171</b>	<b>\$30,903</b>	<b>185</b>	<b>\$7,700</b>	<b>14</b>

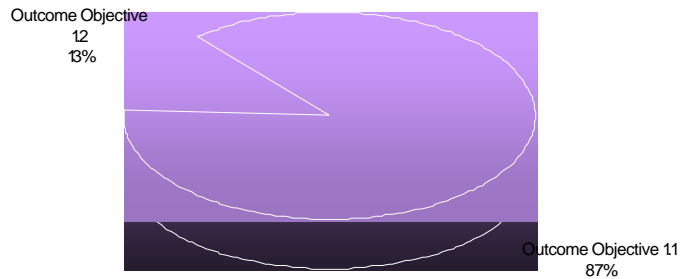


Figure 6: Goal One—FY 2004 Budget Dollars by Outcome Objective

## Ranking of Goal One Activities

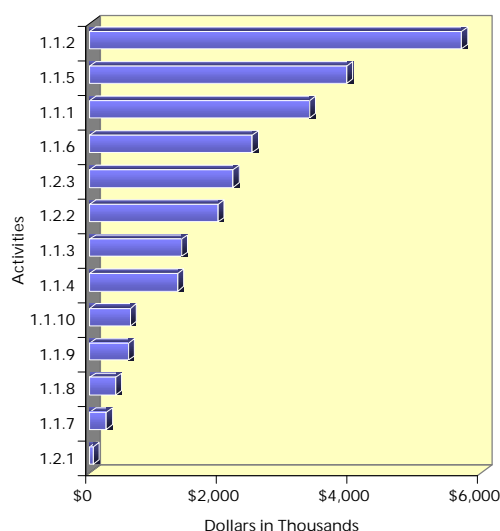


Figure 7: Ranking of Goal One Activities

- **Activity 1.1.2:** Monitor the markets to detect and respond quickly to potentially disruptive situations such as market congestion and/or potential price manipulation.
- **Activity 1.1.5:** Investigate possible manipulation and other abusive trading practices.
- **Activity 1.1.1:** Collect U.S. futures and option large trader and exchange-generated data for all actively trading contracts to support market surveillance, enforcement of speculative limits, dissemination of information to the public, and futures market studies and research by Commission staff and others.
- **Activity 1.1.6:** Institute enforcement cases concerning manipulation and other abusive trading practices.
- **Activity 1.2.3:** Provide materials and information on the functions and utility of the markets to the public through public Commission meetings, through public roundtables, advisory committee meetings, symposia, U.S. Department of Agriculture publications, press releases, advisories, routine reports on large trader activity, etc.
- **Activity 1.2.2:** Maintain a current understanding of market functions and developments through studies and research.
- **Activity 1.1.3:** Conduct timely review of contract market designation applications and changes to applications to determine if they are economically viable and do not pose a likelihood of disruption in the cash, futures, and option markets
- **Activity 1.1.4:** Identify possible manipulation and other abusive trading practices for investigation and possible enforcement or criminal action.
- **Activity 1.1.10:** Conduct reviews of exempt markets and monitor the markets consistent with statutory requirements.
- **Activity 1.1.9:** Conduct reviews of products and rule changes submitted under certification procedures to support market surveillance, enforcement of speculative limits, and to determine if the contracts are viable and pose a likelihood of disruption in the cash, futures, and option markets.
- **Activity 1.1.8:** Conduct timely reviews of exchange's requests for approval of products or rule changes to determine if they are economically viable and do not pose a likelihood of disruption in the cash, futures, and option markets.
- **Activity 1.1.7:** Sanction violators.
- **Activity 1.2.1:** Participate in the President's Working Group on Financial Markets to ensure coordination of information and efforts among U.S. financial regulators.

## Summary of Annual Performance Targets

<b>Goal One</b>								
<b><i>Protect the economic functions of the commodity futures and option markets.</i></b>								
<b>Outcome Objective 1.1</b>								
<b>Foster futures and option markets that accurately reflect the forces of supply and demand for the underlying commodity and are free of disruptive activity.</b>								
<b>Annual Performance Goal</b>								
No price manipulation or other disruptive activities.								
<b>Activity/Strategy</b>	<b>Output Measure 1/</b>	<b>Actual FY02</b>	<b>FY03</b>	<b>FY04</b>	<b>Outcome Measure 1/</b>	<b>Actual FY02</b>	<b>FY03</b>	<b>FY04</b>
1. Collect U.S. futures and option large trader and exchange-generated data for all actively trading contracts to support market surveillance, enforcement of speculative limits, dissemination of information to the public, and futures market studies and research by Commission staff and others.	Amount of trader and exchange-generated reports collected from firms.	31.6M	75.0M	78.8 M	Percentage of projects/measures implemented.	100%	100%	100%
	Number of projects/measures intended to reduce reporting burdens and related costs on exchanges.	7	4	4				
	Number of projects implemented.	7	4	4				
2. Monitor the markets to detect and respond quickly to potentially disruptive situations such as market congestion and/or potential price manipulation.	Number of active futures and option markets.	256	330	350	Of total futures and option markets, percentage of markets with emergencies and disruptive activities (requiring intensified surveillance).	1%	3%	3%
	Number of market surveillance reports prepared on expiring contracts for indications of price manipulation or other market disruptions.	1,826	2,100	1,850				
	Number of market surveillance analyses prepared and presented at Commission briefings.	288	288	288				
	Number of markets requiring intensified surveillance to prevent market manipulation.	2	10	11				
	Number of derivatives transaction execution facilities monitored.	0	3	4				
3. Conduct timely review of contract market designation applications to determine if they meet statutory requirements and comply with core principles.	Number of new contract market designation application reviews completed.	2	5	6	Outcome measure(s) to be determined.			
	Number of derivatives transaction execution facilities registration application reviews completed.	0	2	3				
4. Identify possible manipulation and other abusive trading practices for investigation and possible enforcement or criminal action.								
5. Investigate possible manipulation and other abusive trading practices.	Number of such investigations opened during the fiscal year.	14	13	13	Of all such investigations closed or resulting in enforcement action during the fiscal year, percentage closed or resulting in enforcement action within one year of opening.	44%	44%	41%
	Number of such investigations closed during the fiscal year.	16	13	13				
	Number of such investigations pending at close of fiscal year.	15	15	15				
	Number of such investigations closed or resulting in enforcement case within one year of opening.	7	5	5	Such investigations as a percentage of all CFTC enforcement investigations pending at the close of the fiscal year	13%	13%	13%
	Total number of such investigations closed or resulting in enforcement case during the fiscal year.	16	11	11				

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<b>Outcome Objective 1.1 (continued)</b> <b>Foster futures and option markets that accurately reflect the forces of supply and demand for the underlying commodity and are free of disruptive activity.</b>								
<b>Annual Performance Goal</b> No price manipulation or other disruptive activities.								
<b>Activity/Strategy</b>	<b>Output Measure 1/</b>	<b>Actual FY02</b>	<b>FY03</b>	<b>FY04</b>	<b>Outcome Measure 1/</b>	<b>Actual FY02</b>	<b>FY03</b>	<b>FY04</b>
6. Institute enforcement cases concerning manipulation and other abusive trading practices.	Number of such cases filed during the fiscal year.	7	4	4	Of all such cases filed during the fiscal year, the percentage that were filed within one year of the opening of the relevant investigation.	43%	45%	42%
	Number of such cases filed within one year of opening the related investigation.	3	2	2				
	Number of such cases completed during the fiscal year.	6	3	3	Such cases as a percentage of all CFTC enforcement cases pending at the close of the fiscal year concerning manipulation and abusive trading practices.	11%	11%	11%
	Number of such cases pending at the close of the fiscal year.	17	18	19				
7. Sanction violators.	Amount of money to be paid as disgorgement or restitution.	\$0	\$0	\$0	Percentage of such cases closed during the year that resulted in sanctions.	100%	100%	100%
	Amount of civil penalties.	\$415k	\$5M	\$400k				
	Number of cease and desist orders.	7	5	5				
	Number of registration sanctions.	4	4	4				
8. Conduct timely reviews of exchange requests for approval of products or rule changes to determine if they are economically viable and do not pose a likelihood of disruption in the cash, futures, and option markets.	Number of new contract approval requests reviewed	7	10	12	Outcome measure(s) to be determined.			
	Number of economic reviews of rule change approval requests	17	19	20				
9. Conduct reviews of products and rule changes submitted under certification procedures to support market surveillance, enforcement of speculative limits, and to determine if the contracts are viable and pose a likelihood of disruption in the cash, futures, and option markets.	Pre-surveillance reviews of new contract certification filings	37	32	34	Outcome measure(s) to be determined.			
	Reviews of rule amendment certification filings	233	275	280				
10. Conduct reviews of exempt market filings to ensure consistent with statutory requirements.	Number of reviews related to new exempt market filings	6	8	9	Outcome measure(s) to be determined.			
	Number of reviews related to existing exempt markets.	7	9	11				
	Number of letters issued to potential exempt markets.	1	4	4				
11. Monitor exempt markets to determine whether they comply with statutory requirements and are serving a price-discovery function.	Number of reviews related to exempt markets.	0	5	5	Outcome measure(s) to be determined.			
	Number of letters issued to potential exempt markets.	0	8	10				

<b>Outcome Objective 1.2</b> <b>Oversee markets that can be used effectively by producers, processors, financial institutions, and other firms for the purposes of price discovery and risk shifting.</b>								
<b>Annual Performance Goal</b> No decrease in market use by producers, processors, financial institutions, and other firms because of loss of confidence in the price discovery and risk shifting functions of the markets.								
<b>Activity/Strategy</b>	<b>Output Measure 1/</b>	<b>Actual FY02</b>	<b>FY03</b>	<b>FY04</b>	<b>Outcome Measure 1/</b>	<b>Actual FY02</b>	<b>FY03</b>	<b>FY04</b>
1. Participate in the President's Working Group on Financial Markets to ensure coordination of information and efforts among U.S. financial regulators.	Number of President's Working Group meetings held (includes Steering Committee meetings).	24	24	24	Percentage of President's Working Group meetings attended by CFTC.	100%	100%	100%
					Percentage of President's Working Group recommendations implemented.	100%	100%	100%
	Number of President's Working Group meetings attended (includes Steering Committee meetings).	24	24	24	Percentage of assignments and tasks to CFTC completed.	100%	100%	100%

<b>Outcome Objective 1.2 (Continued)</b> <b>Oversee markets which can be used effectively by producers, processors, financial institutions, and other firms for the purposes of price discovery and risk shifting.</b>								
<b>Annual Performance Goal</b> No decrease in market use by producers, processors, financial institutions, and other firms because of loss of confidence in the price discovery and risk shifting functions of the markets.								
<b>Activity/Strategy</b>	<b>Output Measure 1/</b>	<b>Actual FY02</b>	<b>FY03</b>	<b>FY04</b>	<b>Outcome Measure 1/</b>	<b>Actual FY02</b>	<b>FY03</b>	<b>FY04</b>
2. Maintain a current understanding of market functions and developments through studies and research.	Number of ongoing market research projects and studies.	12	12	11	Percentage of ongoing market research project completed.	100%	100%	100%
	Number of market research projects and studies completed.	12	12	11				
3. Provide materials and information on the functions and utility of the markets to the public through public Commission meetings, through public roundtables, advisory committee meetings, symposia, Commission input to U.S. Department of Agriculture publications, routine reports on large trader activity, etc.	Number of public roundtable presentations conducted.	0	1	1	Percentage of data requests fulfilled.	100%	100%	100%
	Number of Advisory Committee presentations conducted.	0	1	1				
	Number of routine large trader reports published.	5,668	7,400	7,600				
	Number of requests for data from universities and private sources.	10	10	10				
	Number of requests fulfilled.	10	10	9				
	Number of large trader reports (routine & special) provided to other U.S. financial regulators.	28	28	28				

1/ Several new output and outcome measures were developed during the FY 2004 budget formulation process. As such, new measurement data must be formulated. In cases where measurement data is not yet available, the acronym TBD, which stands for "to be determined," has been used in one, two, or all three fiscal years.

## Goal Two: Protect market users and the public.

Total FY 2004 Budget: \$31,519,000 169 FTEs  
 Total Change from FY 2003: \$ 1,741,000 -27 FTEs

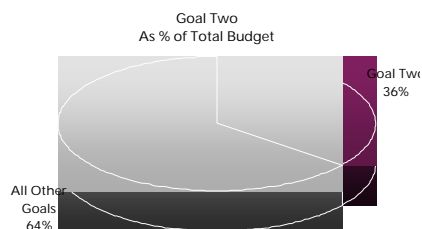


Figure 8: Goal Two—As Percentage of Total Budget

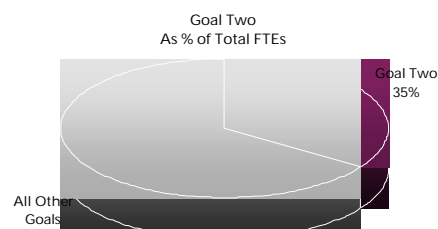


Figure 9: Goal Two—As Percentage of Total FTEs

<b>Goal Two: Protect market users and the public.</b>	
<b>Outcome Objective</b>	<b>Activity</b>
1. Promote compliance with and deter violations of Federal commodities laws.	1. Identify and investigate possible fraudulent and other illegal activities relating to the commodity futures and option markets and their registrants. 2. Bring injunctive actions, including using "quick-strike" efforts to protect assets and to stop egregious conduct. 3. Bring administrative cases involving fraud and other violations. 4. Hear administrative cases. 5. Sanction violators in injunctive actions and administrative action cases. 6. Inform the public and the industry concerning allegations of wrongdoing and associated legal actions, including through publications and through Commission orders and reports describing the alleged violations and the Commission's legal and policy analysis. 7. Collect sanctions and civil monetary penalties against violators. 8. Cooperate with the exchanges, the National Futures Association, other federal agencies, state governments and law enforcement entities, and foreign authorities to gain information for law enforcement purposes and to provide enforcement assistance as necessary and appropriate. 9. Monitor the Internet and other communication media for fraudulent activities and other possible violations of the Act. 10. Resolve appeals in administrative enforcement matters and self-regulatory organization adjudicatory actions.
2. Require commodities professionals to meet high standards.	1. Oversee the National Futures Association registration program including testing, licensing, and ethics training for commodities professionals. 2. Oversee NFA's document disclosure review program. 3. Investigate and bring administrative registration cases arising out of alleged statutory disqualification and obtain suspensions, revocations, conditions, or restrictions of registration.
3. Provide a forum for effectively and expeditiously handling customer complaints against persons or firms registered under the Act.	1. Provide a reparations program for commodities market users to make claims relating to violations of the Act.



## Goal Two: FY 2003 & FY 2004 Plan by Program

### Clearing & Intermediary Oversight

#### Fitness Oversight

The Clearing and Intermediary Oversight program staff will oversee the National Futures Association's (NFA) fitness review program (registration) through formal reviews of the program, informal staff contacts, and meetings of the Registration Working Group (RWG). The Clearing and Intermediary Oversight program will continue to work with other Commission staff to provide input and feedback to NFA on the recently implemented NFA online registration system. If additional futures associations apply for registration and become registered, the program will oversee these registered futures associations (RFAs) as well.

As the pace of technological change quickens, Clearing and Intermediary Oversight program staff will review rules and other guidance provided to the industry to ensure that customer and marketplace protections are maintained and enhanced. In connection with such efforts, staff will modify oversight programs to conform to any changes in the way market and credit risk are assessed pursuant to relevant capital rules and related reporting requirements. Staff will continue to examine firms' risk assessment and internal control oversight programs. The pace of these efforts may be delayed as a result of the decrease in staff resources that will occur in FY 2004.

#### Anti-Money Laundering

The Clearing and Intermediary Oversight program will continue to participate as members of both an interagency working group and an internal Commission task force responsible for implementing and making recommendations on the implementation of the anti-money laundering provisions (Title III) of the USA PATRIOT Act. Clearing and Intermediary Oversight staff will develop or assist other Commission staff in developing rules that Title III directs the Commission to issue. As additional anti-money laundering rulemakings are developed by the U.S. Treasury Department, Clearing and Intermediary Oversight program staff will continue to provide input and assistance to the U.S. Treasury, and, if the U.S. Treasury delegates its anti-money laundering examination and enforcement authority to the Commission, Clearing and Intermediary Oversight program staff will assist in developing requisite Commission rules and in developing and implementing an appropriate audit and compliance program. These efforts will be hindered by the decrease in resources that will occur in FY 2004.

#### Managed Funds and Sales Practice Oversight

Clearing and Intermediary Oversight program staff will continue to address special issues posed by hedge funds, including potential systemic risks such funds pose at times of market volatility—although at reduced levels due to the decrease in resources that will occur in FY 2004. Staff will also continue to directly review the “disclosure documents” of publicly offered commodity pools. Staff will conduct oversight reviews of regulatory programs conducted by NFA. As part of its oversight of NFA's audit program, the Clearing and Intermediary Oversight program will conduct periodic reviews of NFA's audit programs for commodity pool operators (CPOs) and commodity trading advisors (CTAs) as

## **FY 2004 Annual Performance Plan**

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well as NFA's programs for futures commission merchants (FCMs), introducing brokers (IBs), and their branch offices.

Clearing and Intermediary Oversight staff will be required to develop procedures to review the self-regulatory programs of new electronic exchanges, particularly the clearing and financial reporting and record-keeping compliance programs of such entities. This will be added to the current oversight of existing exchange compliance programs. Staff will conduct selected FCM, CPO, CTA, and IB audits to test self-regulatory programs. Staff also will conduct examinations on behalf of the Enforcement program and provide technical assistance to the Enforcement program as needed.

Clearing and Intermediary Oversight program staff will continue to review all customer complaints received by the Commission as part of the effort to determine if customer protection issues arise in connection with new markets and new products offered on new and existing markets. Staff will continue to confer periodically with NFA on marketing issues. In this regard, such coordination may become more critical in the event NFA takes on additional audit responsibilities for existing and new exchanges.

### **Enforcement**

The Enforcement program expects to commit the majority of its resources to investigating and litigating cases involving fraud to protect market users and the public from abuse. The Enforcement program also will focus on cooperative enforcement domestically and internationally.

While it is difficult to project what new issues or trends will arise that will require an enforcement response, certain current circumstances are likely to be indicative of future resource needs, such as: 1) continued industry growth; 2) the development of technology that allows more complicated trading strategies and enhanced ease of access, including from abroad, to a wider customer base through the Internet and other mass media; 3) the increased volume of pooled and managed money flowing into the industry; and 4) the recent statutory clarification in the CFMA concerning the Commission's jurisdiction with respect to retail foreign currency transactions.

The Commission expects to continue to devote resources to matters involving illegal foreign currency futures and option contracts sold to retail customers by unregulated entities until the problem abates. With the volume of investment dollars flowing to pooled and managed funds, the Commission also continues to pursue numerous cases involving unregistered CPOs and CTAs engaged in fraudulent conduct.

Properly staffed, the Enforcement program is able to investigate rapidly and take injunctive action in quick-strike cases<sup>1</sup> without diverting staff from large, complex matters. The Enforcement program uses its quick-strike capability effectively to prosecute those engaged in ongoing fraud where customer funds are at risk. Such quick-strike cases not only send a deterrent message, but they also provide the Commission with the opportunity to freeze assets and preserve books and records whenever possible.

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<sup>1</sup> "Quick-strike" cases are civil injunctive enforcement actions filed by the Commission within four months of the opening of the related investigation.

In FY 2003 and FY 2004, the Enforcement program anticipates that staff will devote attention to cases in which defendants use mass media to reach broad cross-sections of the general public, including unsophisticated customers. The Enforcement program in the past has pursued cases involving solicitation fraud, including false advertising, but the fact patterns in these cases continue to evolve and grow increasingly complex. Moreover, with the increased use of mass media, such as the Internet, these solicitations are reaching more retail customers than ever before.

The Commission also is dedicated to maintaining both its domestic and international cooperative enforcement activities. The relationships that the Enforcement program has forged with Federal, state, and local authorities are invaluable to the efforts of the Commission to fulfill its mission. The Enforcement program fully expects that its investigations will continue to require assistance from foreign authorities. The Commission has entered into formal cooperative enforcement arrangements with more than 20 foreign authorities and continues to negotiate additional arrangements as authorities obtain comprehensive investigatory powers. Much of the international work can be labor-intensive, given differences in language and regulatory schemes. Similarly, effective domestic cooperative enforcement requires that strong relationships be built over time.

Finally, the Enforcement program expects the amount of staff time and resources devoted to statutory disqualification investigations and cases in FY 2003 and FY 2004 to remain small but steady. The Enforcement program expects that it will continue to investigate and prosecute certain significant statutory disqualification matters as well as disqualifications that are related to matters previously prosecuted by the Commission.

#### Ensuring that Assessed Penalties Are Collected

Prior to the end of FY 2002, responsibility for assuring that civil monetary penalties (CMPs) assessed in Commission cases—formerly within the purview of the Commission's former of Trading and Markets program—was transferred to the Enforcement program. Consistent with prior practice, the Enforcement program may turn over to the U.S. Treasury delinquent debts for cross-servicing, administrative offsets, and wage garnishments in accordance with both the Debt Collection Improvement Act of 1996 and the letter of agreement entered into between the Commission and the U.S. Treasury Department. The Commission may also, in appropriate cases, continue to refer delinquent debts directly to the U.S. Department of Justice (DOJ) to enforce collection. The Enforcement program will monitor the progress of each such case.

#### Office of Proceedings

During FY 2002, commodity futures and option markets continued to expand into new areas, and the volume of trading grew. However, the Commission expects the number of reparations complaints filed to remain at 112 in both FY 2003 and FY 2004.

#### Office of the General Counsel

##### Deterring Fraud and Other Illegal Activities

OGC will continue to review all enforcement recommendations involving the initiation and conduct of investigations, injunctive actions, and administrative

## **FY 2004 Annual Performance Plan**

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proceedings involving fraud and other violations to assure their legal sufficiency and their conformance with general Commission policy and precedent. In addition, OGC will continue to assist the Commission in the performance of its adjudication, litigation, *amicus curiae*, and bankruptcy functions.

### Requiring Commodity Professionals to Meet High Standards

OGC will continue to support Commission oversight of the NFA program by reviewing statutory disqualification cases referred to the Commission by the NFA, by reviewing the Commission's delegation of registration authority to the NFA, and by participating in the RWG.

### Providing a Forum for Handling Customer Complaints Against Registrants

OGC will continue to assist the Commission in resolving appeals from initial decisions in reparation cases and will represent the Commission when its reparation decisions are appealed to the U.S. Courts of Appeals.

## Executive Direction & Support

### Administrative Management & Support

In FY 2003 and FY 2004, OIRM will continue to incorporate electronic exchange data into the current EDBS. This system provides information to develop and support investigations of trade practice violations. In FY 2003 and FY 2004, the EMC, the Commission's strategic capital planning body, will identify the CFMA regulatory requirements that should be considered for the current and/or redesigned EDBS.

## Support Strategies to Address Goal Two Management Challenges

### Goal Two: Support Issue/Management Challenge #1

Recruit and retain a critical cadre of versatile attorneys to handle the Commission's diverse complex legal issues.

#### Support Strategy

OGC's and the Enforcement program's efforts to recruit, retain, and train staff will increasingly be devoted to satisfying new responsibilities and undertakings, such as those resulting from: 1) the passage of the CFMA; 2) regulatory implementation of the anti-money laundering provisions of the USA PATRIOT Act; 3) recent developments involving controversial trading practices in the energy markets; 4) the restructuring of the Commission; and 5) the implementation of the privacy provisions of the Gramm-Leach-Bliley Act. In addition, OGC will be administering and ensuring compliance with the Commission's ethics program, undertaking enhanced antitrust advisory responsibilities, and developing expertise regarding securities law. Finally, in response to recent market developments, OGC will increasingly devote resources to develop expertise to advise the Commission on matters concerning the regulation of energy derivatives. The retention and training strategy to meet the pre-existing and new requirements listed above necessitates that OGC at a minimum maintains its current attorney staffing level in FY 2004.

### Goal Two: Support Issue/Management Challenge #2

Improve data reporting and data collection methods to ensure compliance with the Government Performance and Results Act of 1993 without placing unnecessary administrative burdens on professional staff.

#### Support Strategy

A continuing challenge faced by the Enforcement program concerns its efforts to collect, organize, and access program data in a manner that both provides professional staff with information useful to investigative and litigation efforts and provides the Commission and others with a meaningful index to the program's activities and accomplishments. Counterbalanced against this challenge is the program's desire to minimize administrative burdens for professional staff whose primary activity must be the investigation and prosecution of actions against those who violate the Act and Commission regulations.

As part of the Enforcement Modernization Project (EMP), the Commission's Enforcement program, OIRM, and Office of the Inspector General (OIG) have undertaken a far-ranging review and certain enhancements of the automated systems that Enforcement staff use for recording and tracking enforcement-related data. Phase Three of the EMP contemplates the implementation of commercial software applications and associated computer hardware to perform some or all of the following three functions:

- Case Management, Workflow, and Reporting. This will provide the Enforcement program with a centralized relational database to: 1) track all Enforcement activity including the ability to create and monitor progress on investigation, discovery, and litigation plans; and 2) extract data from the system to more effectively meet its various reporting obligations.

## **FY 2004 Annual Performance Plan**

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- *Document Management*. This will allow the Enforcement program to store, index, and search electronic copies of documents obtained in the course of investigations and litigation so that Enforcement staff may quickly and efficiently access them through the Commission's personal computers including the ability to access and present documentary and analytical evidence in court settings.
- *Litigation Support*. This will provide Enforcement staff with tools to: 1) simplify core litigation tasks, such as locating, organizing, and categorizing witness statements and documentary evidence; and 2) more efficiently prepare case plans and witness profiles for use in taking testimony and at trial.

OIRM has hired a manager to oversee this project who will begin work in the second quarter of FY 2003. The Enforcement program has prepared a "statement of work" and other documents necessary to solicit proposals for the creation of a document to specify the requirements for the development and deployment of the product. OFM is currently reviewing the draft "statement of work" and supporting documents. This technology solution will provide additional support to improve the execution of the Enforcement program's Strategic Goal Two to "protect market users and the public."

### Goal Two: Support Issue/Management Challenge #3

Improve staff access to internal enforcement procedures and practices.

#### *Support Strategy*

The Enforcement program maintains a user-friendly electronic procedures manual that provides guidance in all critical areas of the program and that is available online to Enforcement staff nationwide. It includes a comprehensive outline of information critical to the Enforcement program with hyperlinks to instructional materials, related statutes, and relevant authorities. The Enforcement program also provides additional guidance to staff regarding recent developments in the law under other applicable statutory regimes, such as the Electronic Communications Privacy Act and the Right to Financial Privacy Act.

### Goal Two: Support Issue/Management Challenge #4

Become more proficient in the use of the new online registration system database.

#### *Support Strategy*

The Clearing and Intermediary Oversight program will encourage all support staff and certain professional staff to become conversant with the uses of the new database. Support staff also will serve as security managers and trainers to teach the system to new staff and troubleshoot issues raised by program and other Commission staff.

## Working Relationships in Support of Goal Two

### Registered Futures Associations

The CEA authorizes the Commission to delegate registration functions to RFAs and requires that an RFA perform certain regulatory functions. The NFA is an RFA and the principal direct regulator under Commission oversight of those industry professionals who are not members of another SRO. The statutory structure is designed to promote a partnership between RFAs and the Commission to assure high standards for industry professionals. NFA monitors registrants for compliance with the CEA and the rules promulgated thereunder. NFA also monitors activities of NFA members registered as CPOs, CTAs, IBs, and FCMs that are not members of a futures exchange as well as associated persons (AP) of any of the foregoing. This monitoring includes the receipt and review of financial statements filed by CPOs, FCMs, and IBs. The Commission oversees the NFA registration program through frequent contacts with NFA staff members on specific matters and through formal reviews by the Commission of NFA programs. An RWG, comprised of Commission and NFA staff, meets quarterly to discuss issues of mutual interest concerning registration. The Commission has delegated to NFA functions related to:

- Monitoring ethics activities of registrants;
- Reviewing applications of individual foreign firms for an exemption from registration;
- Reviewing CPO and CTA disclosure documents; and
- Collecting, processing, and maintaining Regulation 9.11 notices submitted by exchanges.

Joint activities include:

- Working to delegate regulatory responsibilities associated with the direct filing of Regulation 9.11 notices to NFA;
- Development of revised registration forms and the transition to a paperless registration system; and
- Expanding of the electronic filing program for financial reports.

In addition, pursuant to the CFMA, the Commission has delegated to NFA functions relating to the notice-registration of securities broker-dealers as FCMs or IBs for the purpose of trading SFPs. The Commission will oversee NFA's activities in this regard. Interestingly, the SEC also has made arrangements with NFA concerning its processing of notice registration. In connection with the trading of SFPs, NFA has become registered with the SEC as a limited purpose national securities association.

### Other Futures Associations

If other entities apply for RFA status, the Commission also will oversee their activities.

### Domestic Cooperative Efforts with Law Enforcement & Regulatory Authorities

Task forces and working groups designed to keep market participants abreast of new developments in financial crimes and coordinate governmental responses, particularly in the area of anti-money laundering following the passage of the USA PATRIOT Act.

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### **Coordinating with the SEC in Implementing the CFMA**

In accordance with the CFMA, the Commission is coordinating with the SEC in implementing several rulemakings related to the trading of SFPs. These areas include SFP definitions, registration requirements and functions, treatment of customer funds, the development and implementation of listing standards, margin rules, trading halts, and cash settlement procedures.

### **Telemarketing and Internet Fraud Working Group**

Information sharing concerning regulatory and enforcement initiatives involving telemarketing and fraudulent activities on the Internet. See also the examples of task forces and working groups designed to keep market participants abreast of new developments in financial crimes and to coordinate governmental responses set forth in the *Cooperative Enforcement Efforts* section of the FY 2004 President's Budget.

### **IOSCO**

IOSCO provides a vehicle for exchanging information and expertise among regulatory authorities for the supervision of world securities and derivatives markets to establish standards of best practices, ensure market integrity, and promote effective supervision. Work is conducted through standing committees, such as the standing committee that specializes in enforcement, including cooperation between law enforcement and regulatory authorities and the detection, investigation, and prosecution of fraud and manipulation.



Table 3: Goal Two—Summary of Request by Program

	FY 2003		FY 2004		Change	
	\$ (000)	FTE	\$ (000)	FTE	\$ (000)	FTE
Market Oversight	\$0	0	\$0	0	\$0	0
Clearing & Intermediary Oversight	2,181	15	2,692	15	511	0
Chief Economist	0	0	0	0	0	0
Enforcement	15,205	101	15,805	86	600	-15
Proceedings	2,114	14	2,400	13	286	-1
General Counsel	2,745	16	3,354	16	609	0
Executive Direction & Support	7,533	50	7,268	39	-265	-10
<b>TOTAL:</b>	<b>\$29,778</b>	<b>196</b>	<b>\$31,519</b>	<b>169</b>	<b>\$1,741</b>	<b>-27</b>

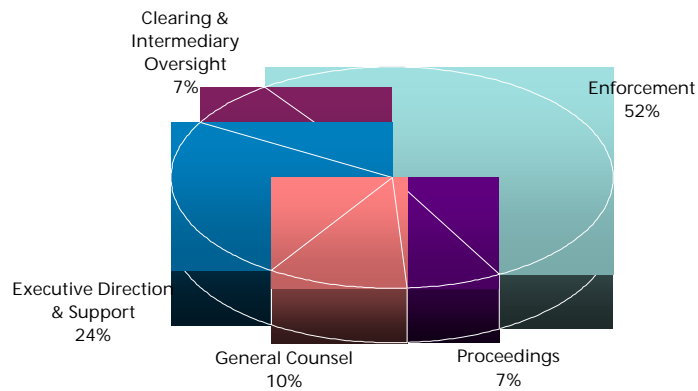


Figure 10: Goal Two—FY 2004 Budget Dollars by Program

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Table 4: Goal Two—Summary of Request by Outcome Objective

	FY 2003		FY 2004		Change	
	\$ (000)	FTE	\$ (000)	FTE	\$ (000)	FTE
<b>GOAL TWO: Protect markets users and the public.</b>						
<b>Outcome Objectives</b>						
2.1 Promote compliance with and deter violations of Federal commodities laws.	\$24,655	162	\$25,574	137	\$919	-25
2.2 Require commodities professionals to meet high standards.	2,453	16	2,932	16	479	0
2.3 Provide a forum for effectively and expeditiously handling customer complaints against persons or firms registered under the Act.	2,670	18	3,013	16	343	-2
<b>Total Goal Two</b>	<b>\$29,778</b>	<b>196</b>	<b>\$31,519</b>	<b>169</b>	<b>\$1,741</b>	<b>-27</b>

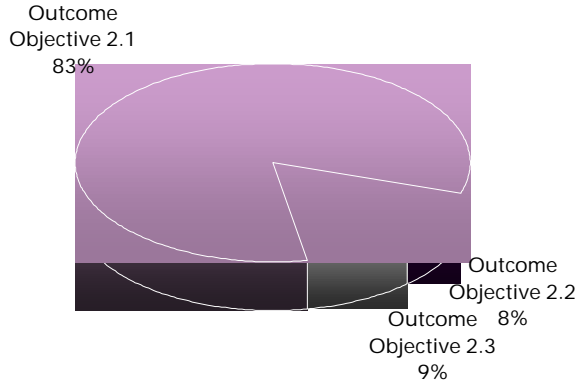


Figure 11: Goal Two—FY 2004 Budget Dollars by Outcome Objective

## Ranking of Goal Two Activities

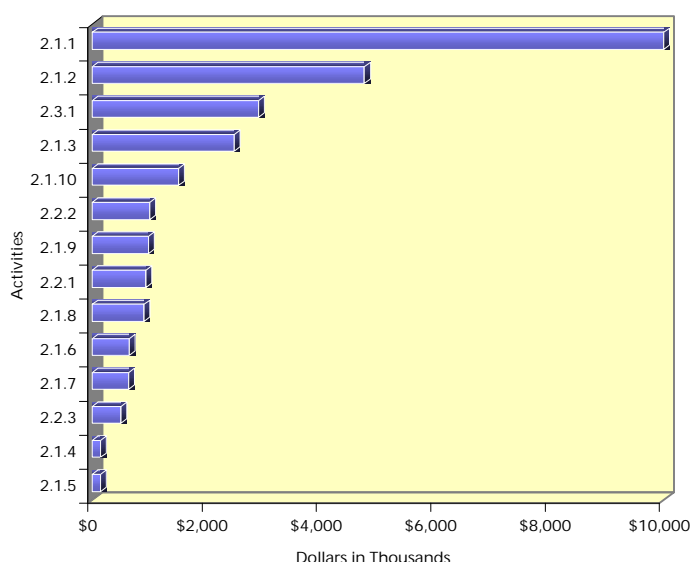


Figure 12: Ranking of Goal Two Activities

- **Activity 2.1.1:** Identify and investigate possible fraudulent and other illegal activities relating to the commodity futures and option markets and their registrants.
- **Activity 2.1.2:** Bring injunctive actions, including using "quick-strike" efforts to protect assets and to stop egregious conduct.
- **Activity 2.3.1:** Provide a reparations program for commodities market users to make claims relating to violations of the Act.
- **Activity 2.1.3:** Bring administrative cases involving fraud and other violations.
- **Activity 2.1.10:** Resolve appeals in administrative enforcement matters and self-regulatory organization adjudicatory actions.
- **Activity 2.2.2:** Oversee NFA's document disclosure review program.
- **Activity 2.1.9:** Monitor the Internet and other communications media for fraudulent activities and possible violations of the Act.
- **Activity 2.2.1:** Oversee the NFA registration program including testing, licensing, and ethics training for commodities professionals.
- **Activity 2.1.8:** Cooperate with the exchanges, the NFA, and other federal agencies, state governments, and law enforcement entities, and foreign authorities to gain information for law enforcement purposes and to provide enforcement assistance as necessary and appropriate.
- **Activity 2.1.6:** Inform the public and the industry concerning allegations of wrongdoing and associated legal actions, including through publications and through Commission orders and reports describing the alleged violations and the Commission's legal and policy analysis.
- **Activity 2.1.7:** Collect sanctions and civil monetary penalties against violators.
- **Activity 2.2.3:** Investigate and bring administrative registration cases arising out of alleged statutory disqualification, and obtain suspensions, revocations, conditions, or restrictions of registration.
- **Activity 2.1.4:** Hear administrative cases.
- **Activity 2.1.5:** Sanction violators.

## Summary of Annual Performance Targets

<b>Goal Two</b> <b><i>Protect market users and the public.</i></b>								
<b>Outcome Objective 2.1</b> <b>Promote compliance with and deter violations of federal commodities laws.</b>								
<b>Annual Performance Goal</b> All known possible wrongdoing identified and investigated. All violators brought to justice.								
Activity/Strategy	Output Measure 1/	Actual FY02	FY03	FY04	Outcome Measure 1/	Actual FY02	FY03	FY04
1. Identify and investigate possible fraudulent and other illegal activities relating to the commodity futures and option markets and their registrants.	Number of such investigations opened during the fiscal year.	114	103	103	Of all such investigations closed or resulting in actions during the fiscal year, percentage of such investigations closed or resulting in CFTC enforcement action within one year of opening.	66%	66%	62%
	Number of such investigations closed during the fiscal year.	174	100	100				
	Total number of such investigations closed or resulting in CFTC enforcement case during the fiscal year	174	110	110				
	Number of such investigations closed or resulting in CFTC enforcement case within one year of opening.	114	60	60	Such investigations as a percentage of all CFTC enforcement investigations pending at the close of the fiscal year.	70%	70%	70%
	Number of such investigations pending at the close of the fiscal year.	83	86	89				
2. Bring injunctive actions, including using "quick-strike" efforts to protect assets and to stop egregious conduct.	Number of such injunctive cases filed using "quick-strike" procedures.	8	7	7	Of the total number of such injunctive actions filed during the fiscal year, the percentage that were quick strike actions.	36%	54%	54%
	Total number of such injunctive cases filed during the fiscal year.	22	13	13				
	Number of such injunctive cases completed during the fiscal year.	19	12	13				
	Total number of such injunctive cases filed within one year of the opening of the related investigation.	16	9	9				
	Number of such injunctive cases pending at the close of the fiscal year.	54	55	55				
3. Bring administrative cases involving fraud and other violations.	Number of administrative cases filed.	13	14	14	Of all such cases filed during the fiscal year, the percentage that were filed within one year of the investigation opening.	23%	42%	42%
	Number of such administrative cases filed within one year of opening the related investigation.	3	6	6				
	Number of such administrative cases completed during the fiscal year.	18	14	14	Such cases as a percentage of all CFTC enforcement cases pending at the close of the fiscal year.	48%	53%	51%
	Number of such administrative cases pending the close of the fiscal year.	24	24	24				
4. Hear administrative cases.	Number of administrative cases decided during the fiscal year.	15	23	23	—	—	—	—
5. Sanction violators in injunctive actions and administrative cases.	Number of statutory restraining orders obtained.	15	10	10	Percentage of such cases closed during the year that resulted in sanctions.	97%	100%	100%
	Number of preliminary Injunctions obtained.	19	11	11				
	Number of permanent injunctions obtained.	20	18	17				
	Amount of disgorgement and restitution granted.	\$26M	\$25M	\$25M				
	Amount of civil monetary penalties granted.	\$25M	\$25M	\$25M				
	Number of cease and desist orders obtained.	20	17	17				
	Number of requests for registration restrictions granted.	17	7	8				
	Number of requests for trading prohibitions granted.	10	10	10				

<b>Outcome Objective 2.1 (continued)</b>								
<b>Promote compliance with and deter violations of federal commodities laws.</b>								
<b>Annual Performance Goal</b>								
All known possible wrongdoing identified and investigated. All violators brought to justice.								
<b>Activity/Strategy</b>	<b>Output Measure 1/</b>	<b>Actual FY02</b>	<b>FY03</b>	<b>FY04</b>	<b>Outcome Measure 1/</b>	<b>Actual FY02</b>	<b>FY03</b>	<b>FY04</b>
6. Inform the public and the industry of the reasons for the Commission's decisions concerning allegations of wrongdoing through published opinions describing the alleged violations and the Commission's legal and policy analysis.	Number of cases decided with published opinions.	11	11	11	Percentage of cases decided with published opinions.	110%	75%	118%
	Number of cases decided by orders of summary affirmance.	0	2	1	Percentage of cases decided with summary affirmance.	0%	18%	8%
7. Collect sanctions and civil monetary penalties against violators.	Amount of civil monetary penalty assessed.	\$13M	\$13M	\$14.3M	Percentage of assessed civil monetary penalties collected. 2/	54%	54%	54%
	Amount of civil monetary penalties collected.	\$7M	\$7M	\$7.7M				
8. Cooperate with the exchanges, the NFA, other federal agencies, state governments and law enforcement entities, and foreign authorities to gain information for law enforcement purposes and to provide enforcement assistance as necessary and appropriate.	Number of enforcement investigations pending at any point during the fiscal year that involved cooperation with other authorities.	18	26	25	Of the total number of investigations that were open during the fiscal year, percentage of investigations that involved cooperation with other authorities.	5%	6%	5%
	Number of requests for assistance from foreign authorities.	21	20	21				
	Number of requests for assistance made to foreign authorities.	71	30	28				
9. Monitor the Internet and other communication media for fraudulent activities and other possible violations of the Act.	Number of preliminary investigation referrals generated from Internet and media monitoring.	39	45	45	Of total enforcement preliminary inquiries, percentage of Internet and media monitoring preliminary investigation referrals.	44%	45%	44%
10. Resolve appeals in administrative enforcement matters and self-regulatory organization adjudicatory actions.	Number of administrative enforcement appeal cases decided during the FY that were decided within six months.	2	3	2	Percentage of administrative enforcement appeals decided within six months.	15%	23%	29%
	Number of administrative enforcement appeals resolved.	13	13	12	Percentage of SRO adjudicatory action appeals resolved within six months.	13%	33%	40%
	Number of SRO adjudicatory action appeal cases decided during the FY that were decided within six months.	1	1	1				
	Number of SRO adjudicatory action appeals resolved.	8	3	4				

2/ The discrepancy between the amount of civil monetary penalties imposed and the amount collected is accounted for by the following factors: 1) the assessment of restitution and disgorgement, which has precedence over civil monetary penalties, is frequently made in injunctive matters; 2) debtors' lack of assets; 3) debtors being barred from the industry, thus having no incentive to pay the penalty; and 4) penalties have been imposed as a result of default proceedings against respondents that are no longer in business and/or cannot be located.

<b>Outcome Objective 2.2</b>								
<b>Require commodities professionals to meet high standards.</b>								
<b>Annual Performance Goal</b>								
No unregistered, untested, and unlicensed commodity professionals.								
<b>Activity/Strategy</b>	<b>Output Measure 1/</b>	<b>Actual FY02</b>	<b>FY03</b>	<b>FY04</b>	<b>Outcome Measure 1/</b>	<b>Actual FY02</b>	<b>FY03</b>	<b>FY04</b>
1. Oversee the NFA registration program including testing, licensing, and ethics training for commodities professionals.	Number of registered commodity professionals.	66,378	67,000	69,000	Percentage of professionals compliant with standards regarding testing, licensing, and ethics training.	100%	100%	100%
	Number of registrants compliant with standards regarding testing, licensing, and ethics training.	66,350	67,000	69,000	Percentage of CFTC-NFA Registration Working Group meetings attended by CFTC	100%	100%	100%
	Number of CFTC-NFA Registration Working Group meetings.	4	4	4				

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<b>Outcome Objective 2.2 (continued)</b> <b>Require commodities professionals to meet high standards.</b>								
<b>Annual Performance Goal</b> No unregistered, untested, and unlicensed commodity professionals.								
<b>Activity/Strategy</b>	<b>Output Measure 1/</b>	<b>Actual FY02</b>	<b>FY03</b>	<b>FY04</b>	<b>Outcome Measure 1/</b>	<b>Actual FY02</b>	<b>FY03</b>	<b>FY04</b>
2. Oversee NFA's disclosure document review program.	Number of disclosure documents reviewed.	16	15	15	Percentage of deficient disclosure documents.	6%	7%	7%
	Number of deficiency letters issued.	1	1	1				
	Number of CPO/CTA interpretations, advisories, and proposed rule changes.	2	2	2				
3. Investigate and bring administrative registration cases arising out of alleged statutory disqualification and obtain suspensions, revocations, conditions, or restrictions of registration.	Number of statutory disqualification investigations opened during the fiscal year.	1	2	2	Of total number of such investigations closed or resulting in enforcement action during the fiscal year, percentage of statutory disqualification investigations closed or resulting in enforcement action within one year	67%	67%	50%
	Number of statutory disqualification investigations closed during the fiscal year.	3	2	2				
	Total number of statutory disqualification investigations closed or resulting in CFTC enforcement case during the fiscal year.	3	3	2	Statutory disqualification investigations as a percentage of all CFTC enforcement investigations pending at the close of the fiscal year.	1%	1%	1%
	Number of statutory disqualification investigations closed or resulting in CFTC enforcement case within one year of opening the investigation.	2	2	1	Of all such actions filed during the fiscal year, percentage of statutory disqualification actions filed within one year of the opening of the relevant investigation.	33%	33%	50%
	Number of statutory disqualification investigations pending at the close of the fiscal year.	1	1	1	Of all CFTC enforcement actions pending at the close of the fiscal year, percentage of statutory disqualification actions	1%	1%	1%
	Total number of statutory disqualification cases filed during the fiscal year.	3	3	2				
	Number of statutory disqualification cases filed within one year of the opening of the relevant investigation.	1	1	1				
	Number of statutory disqualification cases completed during the fiscal year.	4	3	2				
	Number of statutory disqualification cases pending at close of the fiscal year.	1	1	1				
	Number of respondents/ defendants against whom the CFTC's request for registration restrictions has been granted.	1	1	1				

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<b>Outcome Objective 2.3</b>								
<b>Provide a forum for effectively and expeditiously handling customer complaints against persons or firms registered under the Act.</b>								
<b>Annual Performance Goal</b>								
All customer complaints against persons or firms registered under the Act are resolved within one year from the date filed (does not include appeals).								
<b>Activity/Strategy</b>	<b>Output Measure 1/</b>	<b>Actual FY02</b>	<b>FY03</b>	<b>FY04</b>	<b>Outcome Measure 1/</b>	<b>Actual FY02</b>	<b>FY03</b>	<b>FY04</b>
1. Provide a reparations program for commodities market users to make claims relating to violations of the Act.	Number of reparations complaints filed.	80	112	112	Percentage of reparations complaints forwarded as cases.	83%	89%	89%
	Number of reparations complaints forwarded for hearing as cases.	66	100	100	Percentage of filed complaints resolved within one year of filing date.	65%	45%	45%
	Number of appeal cases decided during the fiscal year that were decided within six months.	3	4	2				
	Number of customer complaints resolved in fiscal year within one year of filing date.	52	50	50	Percentage of appeals resolved within six months.	14%	19%	50%
	Number of appeals resolved.	21	21	8				

1/ Several new output and outcome measures were developed during the FY 2004 budget formulation process. As such, new measurement data must be formulated. In cases where measurement data is not yet available, the acronym TBD, which stands for "to be determined," has been used in one, two, or all three fiscal year columns.

## Goal Three: Foster open, competitive, and financially sound markets.

Total FY 2004 Budget: \$26,013,000 135 FTEs  
 Total Change from FY 2003: \$ -891,000 -39 FTEs

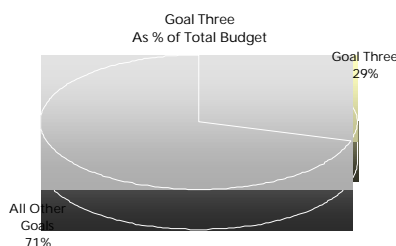


Figure 13: Goal Three—As Percentage of Total Budget

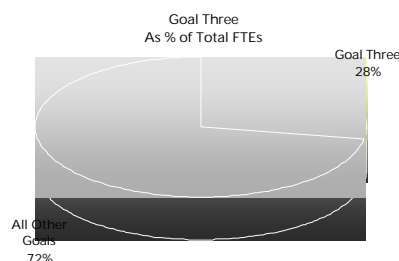


Figure 14: Goal Three—As Percentage of Total FTEs

<b>Goal Three: Foster open, competitive, and financially sound markets.</b>	
<b>Outcome Objective</b>	<b>Activity</b>
1. Ensure sound financial practices of clearing organizations and firms holding customer funds.	1. Promulgate regulations to ensure sound business, financial, and sales practices in firms participating in the commodities industry. 2. Review and oversee self-regulatory organization audit and financial practices. 3. Identify and investigate possible financial, capitalization, segregation, and supervision violations for investigation and possible prosecution.. 4. Bring cases concerning financial, capitalization, segregation, and supervision violations. 5. Sanction violators.
2. Promote and enhance effective self-regulation of the commodity futures and option markets.	1. Review and approve self-regulatory organization rules and rule amendments. 2. Conduct rule enforcement reviews of self-regulatory organizations (financial practices, sales practices, trade practices, and audit trail). 3. Review and oversee self-regulatory organization audit and financial practices. 4. Review adequacy of self-regulatory organization disciplinary actions. 5. Conduct direct audits of clearing organizations and firms handling customer money to ensure compliance with capitalization and segregation rules. 6. Promulgate regulations to ensure effective self-regulation by exchanges, clearing organizations, and registered futures associations.
3. Facilitate the continued development of an effective, flexible regulatory environment responsive to evolving market conditions.	1. Coordinate and cooperate with global financial services regulators to share vital information concerning markets, intermediaries, and regulatory structure. 2. Coordinate and cooperate with global financial services regulators to develop appropriate global standards and arrangements in the commodities industry as markets emerge and evolve. 3. Participate in IOSCO and represent the Commission at international meetings concerning commodity regulation. 4. Participate in the President's Working Group on Financial Markets to ensure coordination of information and efforts among U.S. financial regulators. 5. Provide exemptive, interpretive, or other relief as appropriate to foster the development of innovative transactions, trading systems, and similar arrangements.
4. Promote markets free of trade practice abuses.	1. Identify possible trade practice violations for investigation and possible enforcement proceedings. 2. Investigate possible trade practice violations. 3. Bring cases concerning trade practice violations. 4. Sanction violators.



## Goal Three: FY 2003 & FY 2004 Plan by Program

### Market Oversight

#### Rule Enforcement Review

The staff of the Market Compliance subprogram will conduct four rule enforcement reviews of exchange self-regulatory programs in FY 2003 and three in FY 2004.

#### Information on the Functions and Utility of the Markets

During FY 2003 and FY 2004, Market and Product Review subprogram staff will continue to provide analytic support and expertise for enforcement cases involving questionable trade practices or trading abuses.

#### Promoting Effective Self-Regulation and Protecting Markets from Abusive Trade Practices

Market Compliance subprogram staff will monitor changes in the marketplace that result from new electronic trading systems, advances in order routing technology, the globalization of the markets, and new market practices and clearing structures. The Market Compliance subprogram will also: 1) conduct extensive examinations of self-regulated organization (SRO) programs for enforcing their rules, regulations, and by-laws; 2) monitor daily trading activity for potential violations of the CEA and the Commission's regulations; 3) review new SRO rules and rule amendments; 4) review and evaluate SRO disciplinary actions; and 5) continue to develop rules to foster open and competitive markets and protect the public interest.

Market Compliance staff will conduct four reviews of SRO compliance activities in FY 2003 and three such reviews in FY 2004 to ensure that each SRO program is conducted effectively. These reviews focus on the affirmative programs through which SROs enforce their rules. Such reviews will focus on assuring adherence by contract markets and DTEFs to the core principles governing such entities under the new regulatory framework of the CFMA. These reviews will take on increased importance as one of the Commission's principal regulatory tools in its transformed role of oversight regulator under the CFMA.

In both FY 2003 and FY 2004, staff expect to review approximately 200 SRO rule and rule amendment submissions containing approximately 1,400 rules to ensure the protection of customers, the financial integrity of firms, and the fair treatment of market participants while accommodating product innovations and fostering efficiency. Areas of possible activity include new exchanges, exchange mergers, links with OTC markets and foreign exchanges, and automated trading systems.

With respect to deterring and detecting abusive trade practices, the Market Compliance subprogram will continue its regular program of trade practice investigations, including about 130 such investigations in FY 2003 and 100 in FY 2004. Staff will refer cases to the Enforcement program and the exchanges as appropriate. Staff will also continue development and implementation of enhancements to the automated trade surveillance system at the Commission.

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### Responding to the Industry through Reports and Rulemakings

Market and Product Review subprogram staff will continue to respond to: 1) expanding use of computer and communication technology; 2) electronic trading systems and cross-border transactions; and 3) resulting changes in how markets are accessed by participants and how intermediaries conduct business with customers. Staff will address potential systemic problems and risks through timely preparation of reports and guidance relating to major market events. With the assistance of outside consultants, the Market and Product Review subprogram staff will continue to develop and begin to implement an enhanced electronic trade database and surveillance system. Staff also will be developing new approaches to trade surveillance that are tailored specifically to electronic trading systems.

The Market and Product Review subprogram will continue to address ongoing regulatory issues regarding application of the multitude of new exemptions and exclusions in the CFMA with respect to trading of derivatives and oversight of an increased number of trading facilities and products. Additionally, Market and Product Review will work with the SEC to coordinate rulemakings with respect to the implementation and trading of SFPs by futures and securities exchanges.

The Market and Product Review subprogram also will review no-action requests from foreign boards of trade seeking to place terminals in the U.S. without being designated as a contract market or registered as a DTEF. In addition, the program will review and monitor innovative trading mechanisms developed by the energy industry in response to the deregulation of that industry, particularly those existing in an off-exchange environment, and the program will continue to provide guidance and appropriate regulatory relief by no-action letter and other available means.

### Clearing & Intermediary Oversight

#### Fostering Sound Financial Practices: Financial Surveillance and Risk Assessment

In FY 2003 and FY 2004, the Clearing and Intermediary Oversight program will make every effort to maintain its ongoing activities to ensure sound financial practices. These program activities will face increased demands due to the growing complexity of market structures and product innovations in an increasingly global marketplace while the program incurs a reduced level of resources in FY 2004.

In addition to the expansion of markets and products, the Clearing and Intermediary Oversight program will need to address several proposals and the effects of such proposals. Clearing and Intermediary Oversight program staff anticipate that implementation and review activities relating to the following issues, among others, will be principal areas requiring staff resources: 1) the assessment of risk management and financial integrity at clearing organizations; 2) the continuing movement to risk-based capital in lieu of capital based on a fixed percentage of customer funds; 3) the expansion of permissible investments of customer segregated funds; 4) the potential for including additional instruments in segregation; and 5) the election by customers to “opt-out” of having their funds held in segregation.

During FY 2003 and FY 2004, Clearing and Intermediary Oversight staff will continue to submit to the Commission formal reports on the program's over-

sight of SROs. Program staff will conduct 16 examinations of Commission registrants, process approximately 200 risk assessment filings by FCMs, and review 6,000 financial reports from FCMs, IBs, and commodity pools. The staff also anticipate continuing support to the Enforcement program on accounting matters and the application of financial requirements.

The events of September 11, 2001 resulted in additional challenges to the Clearing and Intermediary Oversight program in achieving Goal Three outcomes set forth for FY 2003 and 2004. Clearing and Intermediary Oversight staff will continue the task of rebuilding risk assessment databases that were lost. The staff is continuing its work with the industry to review contingency plans, improve communications, and assess best practices in light of the lessons learned from the events of September 11, 2001. At the same time, staff may have to re-audit firms under investigation by the Enforcement program so that investigations may continue.

Reports, Rulemakings, and Guidance to Enhance Self-Regulatory Effectiveness and to Ensure a Flexible Regulatory Environment

The Clearing and Intermediary Oversight program will prepare and issue rulemakings, reports, and guidance in order to enhance self-regulatory effectiveness, reduce regulatory burdens, and ensure a flexible regulatory environment although the reduced level of resources that will occur in FY 2004 may hinder to some extent the timely completion of some of these undertakings. Continuing in FY 2003 and FY 2004, the Clearing and Intermediary Oversight program will support the Commission's regulatory reform program in accordance with actions required by or appropriate to the implementation of the CFMA. Staff will continue to review the Commission's existing regulatory requirements and gather input from registrants and other financial industry participants in order to propose, for adoption by the Commission, appropriate amendments to regulations consistent with the goals and principles of the regulatory reform program under the CFMA.

Reports, rulemakings, and guidance from the Clearing and Intermediary Oversight program will take on increased importance in the new oversight environment created by the CFMA's regulatory framework and as SROs work to adhere to the framework's core principles while responding to the demands of the futures marketplace for innovation and global competitiveness. The Clearing and Intermediary Oversight program will also provide assistance to industry participants, counsel, and the public in interpreting and applying the new regulatory framework to concrete factual situations.

In implementing requirements of the CFMA, certain work will be conducted in accordance with the recommendations in the Commission's report on intermediaries. In particular, program staff anticipate rulemakings concerning bunched orders, risk-based capital, foreign depositories, and managed money. Through such activity, the program will help continue Commission efforts to streamline regulatory requirements and ensure a flexible regulatory environment that can accommodate the profound changes now occurring in the global futures marketplace. In this area, program staff will continue to address the creation of new clearing structures and the proliferation of new electronic execution facilities for derivatives.

Also pursuant to the CFMA, DCOs must now register with the Commission. Program staff will add this activity to their existing responsibilities. Staff will also continue to respond to: 1) expanding use of computer and communication technology; 2) electronic trading systems and cross-border transactions; and 3)

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resulting changes in how markets are accessed by participants and how intermediaries conduct business with customers. Staff will address potential systemic problems and risks through timely preparation of reports and guidance relating to major market events.

The new market oversight functions imposed by the CFMA will require reviewing new applications by DCOs and RFAs. The Clearing and Intermediary Oversight program will continue to address ongoing regulatory issues regarding application of the multitude of new exemptions and exclusions in the CFMA with respect to trading of derivatives, oversight of an increased number of clearing organizations, products, and RFAs. Additionally, the Clearing and Intermediary Oversight program will work with the SEC to coordinate rulemakings with respect to the implementation and trading of SFPs by futures and securities exchanges. In this regard, program staff will focus upon the issues of customer margin, protection of customer funds, registration of intermediaries, and possible further exemptions for notice registrants. Staff also anticipate responding to myriad inquiries from intermediaries, their counsel and accountants, and the general public concerning operational issues as the market for SFPs develops. These responses may be delayed because of the decrease in staff resources in FY 2004.

As mandated by the CFMA, Clearing and Intermediary Oversight program staff will continue to review Commission rules and evaluate their effectiveness and necessity as products and markets continue to evolve. The staff will, as necessary, develop and promulgate regulations and promote standards that provide appropriate guidance to market participants, but continue to allow sufficient flexibility. For example, the staff will review a broad range of existing regulatory requirements affecting CPOs and CTAs with the goal of adapting those requirements to better suit the current state of financial market evolution and account for changes in the way market participants do business. The Clearing and Intermediary Oversight program staff anticipates working with NFA in this regard.

The Clearing and Intermediary Oversight program also will continue to review and recommend appropriate revisions of the capital rules for FCMs and IBs so that such firms, the exchanges, and the clearing organizations can enhance their operating efficiency while maintaining a sufficient capital cushion. Staff will continue to provide guidance and relief, as appropriate, to the public, persons new to the futures industry, and market professionals on a wide range of basic compliance matters, such as registration, disclosure, record-keeping, and treatment of customer funds.

### **Enforcement**

The Enforcement program will continue to devote resources to its role in fostering open, competitive, and financially sound markets through investigations and prosecutions relating to financial, supervision, and compliance failures by firms handling customer funds and trade practice abuses by market participants. In addition, the new USA PATRIOT Act and anti-money laundering regulations require registered firms to implement reporting, compliance, and customer identification and verification programs to fight money laundering.

The Enforcement program anticipates that its investigation and prosecution of significant supervision, compliance, and internal control failures may grow as trading volume increases and regulated firms compete aggressively for customers in a changing regulatory and technological environment. Such violations threaten the financial integrity of registered firms holding customer funds and,

if large enough, can threaten the financial integrity of clearing organizations. In addition, without adequate supervision and compliance systems in place, customers remain vulnerable to fraud, including misallocation of trades and unauthorized trading. Diligent supervision by registered firms also protects markets from the abusive practices of traders, including wash sales and manipulation. Such cases tend to be complex and time consuming, requiring extensive testimony from employees and managers in the supervisory chain. These cases can result in substantial remedial changes in the supervisory structures and systems in large FCMs following comprehensive reviews by the firms pursuant to Commission orders. These cases have had a significant impact on the way firms do business and are an important part of the responsibility of the Commission to promote sound practices by registered firms.

Enforcement staff will continue, in the first instance, to rely on SROs and independent auditors to monitor compliance and supervision by registered firms. Where appropriate, however, Enforcement program staff will undertake aggressive investigations and prosecutions to remedy failures in this area.

Enforcement staff will continue to prosecute trade practice violations in appropriate cases. Even with statutory and regulatory changes to reduce regulatory requirements, the Commission continues to be responsible for fostering markets that are free of manipulative and fraudulent trading practices. This requires a strong enforcement presence in this area. Exchanges play an important role in assuring open, competitive markets through surveillance and disciplinary actions. Their technological improvements and enhanced audit trails may impact the number of Commission enforcement actions in this area. Nevertheless, their jurisdiction is limited and certain misconduct crosses product lines and markets. As a result, the Enforcement program must be prepared to act when necessary. Such investigations tend to be among the most complex and time-consuming matters undertaken by Enforcement staff and will require the commitment of significant resources for the foreseeable future. The highly resource-intensive Enron investigation and other energy-related matters are strong indications of this trend.

Internationally, the Enforcement program will continue to negotiate cooperative enforcement arrangements as foreign authorities obtain enhanced regulatory and enforcement powers and become full partners in investigating and prosecuting futures and option violations. Such arrangements have been critical to the investigation and prosecution of cases involving fraud and manipulation. The Enforcement program will continue to pursue opportunities to enter into such arrangements in the future and also will participate in international organizations that encourage the development of high regulatory standards and cooperative enforcement. Such organizations have had a meaningful effect on lowering the barriers to sharing information between futures regulators and encouraging foreign jurisdictions to empower their regulators to enforce futures and option laws.

### Office of Proceedings

During FY 2003 and FY 2004, the Office of Proceedings will continue to hear and decide administrative enforcement cases brought by the Commission against persons or firms charged with violating the Act or Commission rules and regulations.

## Office of the General Counsel

### Promulgating Regulations to Ensure Sound Business, Financial, and Sales Practices

OGC will continue to draft or review all proposed and final Commission rules and rule amendments to assure their legal sufficiency and conformance with the CEA and Commission policy and precedent. In particular, OGC will coordinate the Commission's work with the SEC and other agencies to accomplish the joint rulemakings required by the CFMA.

### Financial, Capitalization, Segregation and Supervision Violations

OGC will continue to review all proposed enforcement actions involving the investigation, prosecution, and sanctioning of violators of financial, capitalization, segregation, and supervision requirements to assure their legal sufficiency and conformance with the requirements of the CEA and Commission policy and precedent.

### Promoting Effective Self-Regulation

OGC will continue to review all proposed SRO rules and rule amendments for legal sufficiency and conformance with general Commission policy and precedent.

### Facilitating a Flexible Regulatory Environment

OGC will continue to provide support to Commission efforts to coordinate and cooperate with global financial service regulators, share vital information, and develop appropriate global standards. It will also assist the Commission in promoting a flexible regulatory environment by analyzing requests for exemptions from the CEA and Commission regulations and by preparing and reviewing exemptive, no-action, and interpretive letters.

### Coordination of Information and Efforts Among U.S. Regulators

OGC will continue to provide support to Commission representatives participating in the President's Working Group on Financial Markets.

### Administrative Matters

OGC will continue to advise the Commission with respect to a wide range of administrative matters. Ongoing responsibilities will include: 1) monitoring and commenting on proposed legislation affecting the Commission; 2) assisting the Commission in responding to congressional inquiries; 3) advising the Commission with respect to issues involving the Freedom of Information, Privacy, Government in the Sunshine, Regulatory Flexibility, Paperwork Reduction, and Federal Advisory Committee Acts; 4) assisting the Commission in responding to third-party subpoenas; 5) providing support with respect to ethics issues; and 6) advising the Commission on personnel, labor, and employment law matters.

## Executive Direction & Support

### Agency Direction

In FY 2003 and FY 2004, OIA will continue to: 1) coordinate the Commission's representation in international forums; 2) cooperate with global financial services regulators to share information concerning markets, intermediaries, and

regulatory structures; and 3) develop appropriate standards and arrangements in the commodities industry.

Also, in FY 2003 and FY 2004, OIA will continue to participate in IOSCO, the Council of Securities Regulators of the Americas, and other international organizations to facilitate cross-border business through the elimination of unnecessary legal and practical impediments, to encourage market discipline through greater transparency, and to enhance customer and market protections through the development of cooperative arrangements and internationally accepted standards for the regulation of markets and financial services firms. During FY 2003, OIA will continue to coordinate the Commission's activities within the IOSCO Technical Committee and its standing committees with special focus on issues related to transparency needs of organized markets, contract design principles for narrow-based stock indexes, increased use of indexed products, the coordination of trading halts, clearing and settlement systems, and cross-border intermediation. The Commission also will work within IOSCO to develop an assessment methodology for IOSCO's core regulatory principles.

During FY 2003, OIA will continue to develop cooperative arrangements to share information needed by other regulators or SROs to register firms that are remote members of U.S. markets. OIA will continue to provide technical support to the U.S. Treasury's efforts in international groups, such as the Financial Stability Forum (FSF) to increase the transparency of markets and strengthen the global markets' financial architecture.

In FY 2003 and FY 2004, OIA will continue to provide technical assistance to foreign market authorities and the Global Markets Advisory Committee (GMAC) of the Commission. OIA will seek support for GMAC's technical assistance activities. The CFMA encourages the Commission to continue its international activities and, among other things, develop internationally acceptable regulatory standards of best practice, enhance international supervisory cooperation, and facilitate cross-border transactions. These activities support this portion of the CFMA.

#### Administrative Management & Support

In FY 2002, the first phase of the integrated system implementation for the corporate litigation support business process began. This phase incorporates the first three components of the corporate business process—case management, document management, and document imaging. In FY 2003, the second phase will incorporate litigation support with the first three components. This phased implementation is based on funding and staff availability.

In FY 2003 and FY 2004, OIRM will continue to support the newly designed review process for new applicants as it relates to electronic systems. Also, in FY 2003 and FY 2004, the EMC-approved project to facilitate the electronic filing of firm financial condition statements will continue.

## Support Strategies to Address Goal Three Management Challenges

### Goal Three: Support Issue/Management Challenge #1

Upgrade the CMP database to include basic reports and to expand the database in order to be able to record information on the collection of restitution and disgorgement penalties.

#### Support Strategy

The former Trading and Markets program (now referred to as the Clearing & Intermediary Oversight program), with support from OIRM, has worked on further developing the Microsoft Access computer database presently in place to be able to generate reports on the collection of CMPs as well as restitution and disgorgement penalties. In FY 2002, the Enforcement program began maintaining this CMP database after it was transferred to it from the former Trading and Markets program. Enforcement program staff will continue to work to upgrade the system.

### Goal Three: Support Issue/Management Challenge #2

Revise Form 1-FR, the FCM financial reporting form, to reflect the Commission's anticipated adoption of a risk-based capital requirement, which will conform the Commission's net capital rule to the risk-based requirement generally adopted by major U.S. commodity exchanges. Other rule changes will necessitate additional changes to the forms. Coordinate with the SEC in making related changes to the T-10 schedules, which are supplemental schedules to SEC's FOCUS report where registered FCMs report net capital, segregation, and secured amount totals.

#### Support Strategy

Clearing and Intermediary Oversight program staff will draft the new financial reporting forms for FCMs and IBs. The Commission will work with the exchanges and NFA on updating, and distributing the electronic filing software, which has become the standard software for filing financial reports with the commodity futures industry.

### Goal Three: Support Issue/Management Challenge #3

Develop a risk-management software application that will allow for conducting risk analysis and stress testing on large trader and clearing member positions.

#### Support Strategy

Clearing and Intermediary Oversight staff will develop queries that will identify certain large trader and/or clearing member positions from the Market Oversight program's integrated large trader database for further review and analysis. Staff will be able to query the database using multiple criteria, such as trader's name, commodity contract being traded, and date. The query results will be downloaded into commercial software called SPAN Risk Manager, which will have the capacity to analyze potential market losses incurred from one business day to the next. Clearing and Intermediary Oversight program staff also anticipate performing "what-if" analyses, whereby existing positions can be stress-tested to identify accounts where a large market move would likely cause extreme losses and possible financial distress to the FCM carrying the account.





## Working Relationships in Support of Goal Three

### *Presidential Working Group on Financial Markets*

This group coordinated initiatives concerning risk assessment, capital requirements, internal controls, disclosure, accounting, market practices relating to derivative instruments, hedge funds, bankruptcy law revisions, and contingency planning for market emergencies. Participated in Joint Report on Retail Swaps.

### *Coordinating with the SEC in Implementing the CFMA*

In accordance with the CFMA, the Commission is coordinating with the SEC in implementing several rulemakings related to the trading of SFPs and narrow-based stock index futures. The Commission is also coordinating with the SEC regulatory oversight activities or SROs trading SFPs.

### *Foreign Market Authorities & Exchange*

Technical assistance and promotion of international regulatory standards by allowing other regulators to benefit from the Commission's vast experience.

### *Educational Forums*

Discussions of the CEA, Commission rules, pending rule changes, and market developments at conferences sponsored by the Practicing Law Institute, the American Institute of Certified Public Accountants (AICPA), the Securities Industry Association (SIA), IOSCO, the Managed Funds Association, and the Futures Industry Association (FIA).

### *Technology Advisory Committee*

A means of communicating about and advising the Commission on the impact and implications of technological innovation in the financial services and commodity markets.

### *Intermarket Surveillance Group*

Commission staff work with futures exchanges on addressing intermarket issues related to SFPs.

### *Global Market Advisory Committee*

A means for obtaining input on international market issues that affect the integrity and competitiveness of U.S. markets and firms engaged in global business, especially with regard to the regulatory challenges of a global marketplace, including avoiding unnecessary regulatory or operational impediments faced by those doing global business and the placement of electronic terminals of foreign exchanges in the U.S. It also serves as a channel for communication between the Commission and U.S. and foreign markets, firms, end users, and experts involved in and affected by market globalization.

### *Memoranda of Understanding/International Arrangements*

Cooperation with foreign regulatory and enforcement authorities through memoranda of understanding and other arrangements, such as 21 formal cooperative enforcement arrangements, arrangements relating to financial information sharing, and cooperative arrangements for sharing information on matters related to the implementation of the Commission's Part 30 regulations, which grant foreign firms an exemption from certain Commission rules.

**Cooperative Efforts with Respect to Anti-Money Laundering Measures**

Commission staff have participated as members of both an interagency working group and an internal Commission task force responsible for implementing and making recommendations on the implementation of the anti-money laundering provisions of the USA PATRIOT Act of 2001. Staff have worked with NFA to adopt and implement rules requiring anti-money laundering programs, including NFA rules requiring registrants to implement their own anti-money laundering procedures and compliance programs. Staff have also reviewed, drafted, and provided comments concerning a number of other anti-money laundering rulemakings and reports issued by the U.S. Treasury Department, including proposed rules or interim final rules involving: 1) correspondent accounts and private banking accounts for non-U.S. persons; 2) information sharing; and 3) program requirements applicable to unregistered investment companies, including hedge funds, commodity pools, and other financial institutions. To assist the U.S. Treasury Department, the anti-money laundering task force also prepared drafts of required rules, including those that will require customer identification and verification programs (to be issued jointly with the Commission) and suspicious activity reporting by FCMs and IBs. As additional anti-money laundering rulemakings are conceived and developed, staff will continue to provide input and assistance, and, if the U.S. Treasury delegates its anti-money laundering examination and enforcement authority to the Commission, staff will assist in developing requisite Commission rules and in developing and implementing an appropriate audit and compliance program.

**IOSCO**

Provides a vehicle for exchanging information and expertise among regulatory authorities for the supervision of world securities and derivatives markets to establish standards of best practices, to ensure market integrity, and to promote effective supervision. Work is conducted through standing committees and special purpose task forces that specialize in issues related to multinational disclosure and accounting, the regulation of secondary markets, the regulation of market intermediaries, enforcement and information sharing, and investment management.

**Council of Securities Regulators of the Americas**

An organization of securities and derivatives regulators in North and South America whose objective is the promotion of market integrity through the development of high regulatory standards throughout the region. This organization serves primarily as a vehicle to share regulatory expertise among South American countries.

**International Finance Corporation**

A Division of the World Bank that has co-sponsored with the Commission a one-day seminar in Washington, D.C. on the fundamentals of creating successful derivatives markets. The seminars stress the importance of meeting internationally accepted regulatory benchmarks.

**Inter-American Development Bank**

This organization provided funding to permit regulators from South America to attend the Commission's regulatory training seminar.

**Intermarket Financial Surveillance Group**

Commission staff work with the SEC, the National Association of Securities Dealers, securities exchanges, securities brokers and dealers, and FCMs on addressing intermarket financial issues.

## **FY 2004 Annual Performance Plan**

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### **International Monetary Fund (IMF) and World Bank**

The IMF is an international organization of 183 member countries established to promote international monetary cooperation, exchange stability and orderly exchange requirements, and to foster economic growth. The World Bank consists of five institutions that specialize in different aspects of development. The Commission staff participated in the IMF/World Bank Financial Sector Assessment program (FSAP), which sends teams to identify the strengths and vulnerabilities of a country's financial system. Commission staff chair the IOSCO Implementation Committee, which provided comment to the IMF/World Bank on the development of its guidance note on using the IOSCO principles for FSAP purposes.

### **Joint Audit Committee and Joint Compliance Committee**

The JAC and JCC are comprised of representatives of the audit and compliance departments of the futures industry SROs. Commission staff work with the JAC and JCC on addressing financial and trade practice issues respectively affecting the futures industry.

### **Trade Agreements**

Commission staff work with the U.S. Treasury Department and the Office of the U.S. Trade Representative in drafting and negotiating trade agreements, e.g., general agreements on trade in services and bilateral free trade agreements.

### **Cross Sector Regulatory Group**

Commission staff participation in financial services regulators forum to discuss common issues primarily arising out of consolidated supervision in connection with implementation of the Gramm-Leach-Bliley Act.

### **Unified Clearing Group**

The Unified Clearing Group is composed of representatives of the clearing organizations for the U.S. futures and securities industries as well as certain foreign clearing organizations. The Unified Clearing Group meets to discuss and act upon issues of mutual interest. Commission staff, as well as staff members from the SEC and the Board of Governors of the Federal Reserve System (FRB), participate as observers.

Table 5: Goal Three—Summary of Request by Program

	FY 2003		FY 2004		Change	
	\$ (000)	FTE	\$ (000)	FTE	\$ (000)	FTE
Market Oversight	\$6,854	43	\$9,213	44	\$2,359	1
Clearing & Intermediary Oversight	7,086	49	9,633	51	2,547	2
Chief Economist	156	1	212	1	56	0
Enforcement	3,521	23	5,476	28	1,955	5
Proceedings	152	1	197	1	45	0
General Counsel	1,125	7	1,734	8	609	1
Executive Direction & Support	8,179	53	10,781	54	2,602	1
<b>TOTAL</b>	<b>\$27,073</b>	<b>177</b>	<b>\$37,246</b>	<b>187</b>	<b>\$10,173</b>	<b>10</b>

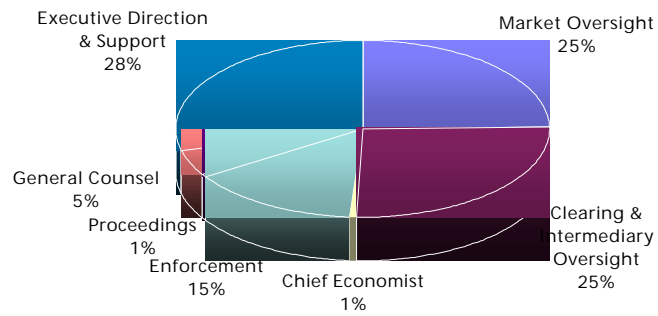


Figure 15: Goal Three—FY 2004 Budget Dollars by Program

## FY 2004 Annual Performance Plan

Table 6: Goal Three—Summary of Request by Outcome Objective

	FY 2003		FY 2004		Change	
	\$ (000)	FTE	\$ (000)	FTE	\$ (000)	FTE
<b>GOAL THREE: Foster open, competitive, and financially sound markets.</b>						
Outcome Objectives						
3.1 Ensure sound financial practices of clearing organizations and firms holding customer funds.	\$4,756	31	\$6,700	34	\$1,944	3
3.2 Promote and enhance effective self-regulation of the commodity futures and option markets.	12,872	83	17,351	86	4,479	3
3.3 Facilitate the continued development of an effective, flexible regulatory environment responsive to evolving market conditions.	4,225	29	5,724	30	1,499	1
3.4 Promote markets free of trade practice abuses.	5,220	34	7,471	37	2,251	3
<b>TOTAL</b>	<b>\$27,073</b>	<b>177</b>	<b>\$37,246</b>	<b>187</b>	<b>\$10,173</b>	<b>10</b>

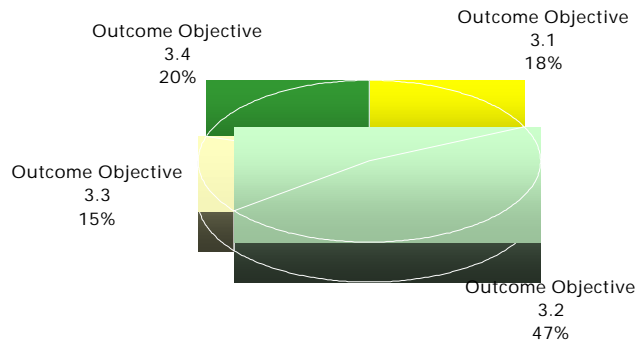


Figure 16: Goal Three—FY 2004 Budget Dollars by Outcome Objective

## Ranking of Goal Three Activities

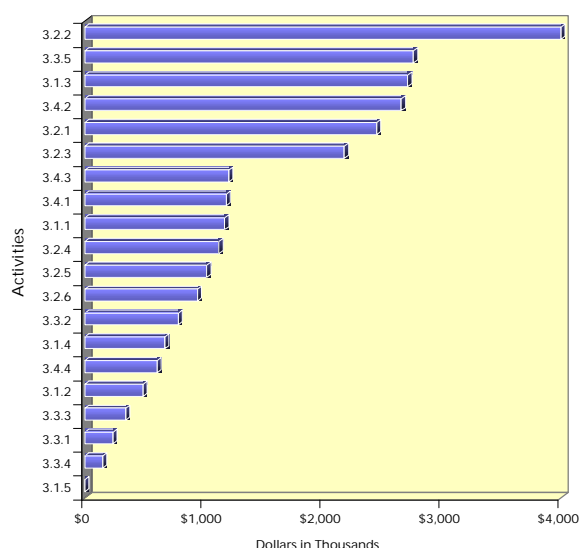


Figure 17: Ranking of Goal Three Activities

- **Activity 3.2.2:** Conduct rule enforcement reviews of self-regulatory organizations (financial practices, sales practices, trade practices and audit trail).
- **Activity 3.3.5:** Provide exemptive, interpretive, or other relief as appropriate to foster the development of innovative transactions, trading systems, and similar arrangements.
- **Activity 3.1.3:** Identify and investigate possible financial, capitalization, segregation, and supervision violations for investigation and possible prosecution.
- **Activity 3.4.2:** Investigate possible trade practice violations.
- **Activity 3.2.1:** Review and approve self-regulatory organization rules and rule amendments.
- **Activity 3.2.3:** Review and oversee self-regulatory organization audit and financial practices.
- **Activity 3.4.3:** Bring cases concerning trade practice violations.
- **Activity 3.4.1:** Identify possible trade practice violations for investigation and possible enforcement proceedings.
- **Activity 3.1.1:** Promulgate regulations to ensure sound business, financial, and sales practices in firms participating in the commodities industry.
- **Activity 3.2.4:** Review adequacy of self-regulatory organization disciplinary actions.
- **Activity 3.2.5:** Conduct direct audits of clearing organizations and firms handling customer money to ensure compliance with capitalization and segregation rules.
- **Activity 3.2.6:** Promulgate regulations to ensure effective self-regulation by exchanges, clearing organizations, and registered futures associations.
- **Activity 3.3.2:** Coordinate and cooperate with global financial services regulators to develop appropriate global standards and arrangements in the commodities industry as markets emerge and evolve.
- **Activity 3.1.4:** Bring cases concerning financial, capitalization, segregation, and supervision violations.
- **Activity 3.4.4:** Bring enforcement proceedings against violators.
- **Activity 3.1.2:** Review and oversee self-regulatory organization audit and financial practices.
- **Activity 3.3.3:** Participate in IOSCO and represent the Commission at international meetings concerning commodity regulation.
- **Activity 3.3.1:** Coordinate and cooperate with global financial services regulators to share vital information concerning markets, intermediaries, and regulatory structure.
- **Activity 3.3.4:** Participate in the President's Working Group on financial Markets to ensure coordination of information and efforts among U.S. financial regulators.
- **Activity 3.1.5:** Sanction violators.

## Summary of Annual Performance Targets

<b>Goal Three</b>								
<b><i>Foster open, competitive, and financially sound markets.</i></b>								
<b><i>Outcome Objective 3.1</i></b>								
<b><i>Ensure sound financial practices of clearing organizations and firms holding customer funds.</i></b>								
<b>Annual Performance Goal</b>								
No loss of customer funds as a result of firms' failure to adhere to regulations. No customers prevented from transferring funds from failing firms to sound firms.								
<b>Activity/Strategy</b>	<b>Output Measure 1/</b>	<b>Actual FY02</b>	<b>FY03</b>	<b>FY04</b>	<b>Outcome Measure 1/</b>	<b>Actual FY02</b>	<b>FY03</b>	<b>FY04</b>
1. Promulgate regulations to ensure sound business, financial, and sales practices in firms participating in the commodities industry.	Number of firms required to transfer customer accounts.	0	0	0	Percentage of customers' funds lost.	0%	0%	0%
	Amount of customer funds lost.	0	0	0				
2. Review and oversee self-regulatory organization audit and financial practices.	Number of oversight audits.	8	16	16	Percentage of financial reports requiring follow up investigations.	3%	2%	2%
	Number of financial investigative reviews.	2	10	10				
	Number of financial reports processed.	6,109	6,000	6,000				
	Number of financial reports resulting in follow-up investigation.	167	120	120				
3. Identify and investigate possible financial, capitalization, segregation, and supervision violations for investigation and possible prosecution.	Number of such investigations opened during the fiscal year.	8	16	16	Of all such investigations closed or resulting in actions during the fiscal year, percentage of such investigations closed or resulting in enforcement action within one year.	35%	57%	55%
	Number of such investigations closed during the fiscal year.	20	16	16				
	Total number of such investigations closed or resulting in CFTC enforcement action during the fiscal year.	20	19	18	Such investigations as a percentage of all CFTC enforcement investigations pending at the close of the fiscal year.	6	6%	6%
	Number of such investigations closed or resulting in CFTC enforcement action within one year of the opening of the investigation.	7	11	10				
	Number of such investigations pending at the close of the fiscal year.	7	7	7				
	Total number of such cases filed during the fiscal year.	16	16	16				
4. Bring cases concerning financial, capitalization, segregation, and supervision violations.	Total number of such cases completed during the fiscal year.	16	16	16	Percentage of such cases that were filed within one year of the opening of the relevant investigation.	50%	50%	50%
	Number of such cases filed within one year of the opening of the relevant investigation.	8	8	8				
	Number of such cases pending at the close of the fiscal year.	49	49	49	Such cases as a percentage of the total number of CFTC enforcement actions pending the close of the fiscal year.	30%	30%	30%
	Number of such cases pending at the close of the fiscal year.	49	49	49				
5. Sanction violators.	Amount of disgorgement and restitution ordered.	\$3M	\$14M	\$13M	Percentage of cases closed during the year that resulted in sanctions.	94%	100%	100%
	Amount of civil monetary penalties ordered.	\$23M	\$8M	\$8M				
	Number of cease and desist orders.	8	7	7				
	Number of registrations that were ordered restricted.	8	7	7				



<b>Outcome Objective 3.2</b>								
<b>Promote and enhance effective self-regulation of the commodity futures and option markets.</b>								
<b>Annual Performance Goal</b>								
No loss of customer funds resulting from failure of self-regulatory organizations to ensure compliance with its rules.								
<b>Activity/Strategy</b>	<b>Output Measure 1/</b>	<b>Actual FY02</b>	<b>FY03</b>	<b>FY04</b>	<b>Outcome Measure 1/</b>	<b>Actual FY02</b>	<b>FY03</b>	<b>FY04</b>
1. Review and approve self-regulatory organization rules and rule amendments and filings from exempt markets.	Number of SRO rule submissions reviewed.	390	200	375	Percentage of rule submissions completed within:			
	Number of SRO rule amendments reviewed.	1,856	1,400	1,500	10 days	89%	89%	96%
					45 days	5%	5%	2%
					75 days	3%	3%	2%
					180 days	3%	3%	0%
2. Conduct rule enforcement reviews of self-regulatory organizations (financial and sales practices).	Number of rule enforcement reviews conducted.	3	3	3	Percentage of planned rule enforcement reviews completed.	100%	100%	100%
	Number of rule enforcement recommendations for improvement made.	4	4	4	Percentage of recommendations adopted by SROs.	100%	100%	100%
2a. Conduct rule enforcement reviews of self-regulatory organizations (trade practices and market surveillance)	Number of rule enforcement reviews conducted.	3	TBD	TBD	Percentage of planned rule enforcement reviews completed.	100%	100%	100%
	Number of rule enforcement recommendations for improvement made.	8	TBD	TBD	Percentage of recommendations adopted by SROs.	100%	TBD	TBD
3. Review and oversee self-regulatory organization audit and financial practices.	Number of oversight audits.	8	16	16	Percentage of financial reports requiring follow up investigations.	3%	2%	2%
	Number of financial investigative reviews.	2	10	10				
	Number of financial reports processed.	6,109	6,000	6,000				
	Number of financial reports resulting in follow-up investigation.	167	120	120				
4. Review adequacy of self-regulatory organization disciplinary actions.	Number of self-regulatory organization disciplinary actions reviewed.	642	590	TBD	Percentage of disciplinary action reports made in compliance with regulatory standards.	100%	100%	100%
					Percentage of disciplinary actions requiring follow-up review.	25%	30%	25%
5. Conduct audits of clearing organizations and firms handling customer money including capitalization and segregation rules.	Number of audits completed.	6	15	15	Percentage of audited clearing organizations and firms in compliance with capitalization and segregation rules.	100%	100%	100%
	Number of audited clearing organizations in compliance.	3	2	2				
	Number of audited FCMs in compliance.	2	10	10				
6. Promulgate regulations to ensure effective self-regulation by exchanges, clearing organizations, and registered futures associations.	Number of newly promulgated CFTC regulations requiring SRO implementation.	1	1	1	Percentage of SROs implementing new regulations.	100%	100%	100%
6a. Promulgate regulations to ensure effective self-regulation by clearing organizations and registered futures associations.	Number of newly promulgated CFTC regulations requiring SRO implementation.	1	1	1	Percentage of SROs implementing new regulations.	100%	100%	100%
7. Review DCO applications.	DCO applications processed.	3	2	2	Number of applications demonstrating compliance with core principles.	100%	100%	100%
8. Review DCM applications for compliance with DC5 and CP11.	DCM applications reviewed.	6	4	4	Number of applications demonstrating compliance with CP11 and DC5.	100%	100%	100%

## FY 2004 Annual Performance Plan

<b>Outcome Objective 3.3</b>								
<b>Facilitate the continued development of an effective, flexible regulatory environment responsive to evolving market conditions.</b>								
<b>Annual Performance Goal</b>								
All requests for information sharing under agreements honored, and new agreements pursued as warranted. All requests for relief responded to within Commission guidelines.								
<b>Activity/Strategy</b>	<b>Output Measure 1/</b>	<b>Actual FY02</b>	<b>FY03</b>	<b>FY04</b>	<b>Outcome Measure 1/</b>	<b>Actual FY02</b>	<b>FY03</b>	<b>FY04</b>
1. Coordinate and cooperate with global financial services regulators to share vital information concerning markets, intermediaries, and regulatory structure.	Number of requests from foreign authorities received.	261	200	200	Percentage of requests from foreign authorities honored.	100%	100%	100%
	Number of requests from foreign authorities honored by CFTC.	261	200	200				
	Number of requests made to foreign authorities.	160	150	150	Percentage of requests made to foreign authorities honored.	96%	100%	100%
	Number of CFTC requests honored by foreign authorities.	153	150	150				
	Average response time.	2 days	2 days	2 days				
2. Coordinate and cooperate with global financial services regulators to develop appropriate global standards and arrangements in the commodities industry as markets emerge and evolve.	Number of global standards, arrangements or initiatives developed.	3	3	3	Percentage of global standards, arrangements, and initiatives adopted.	100%	100%	100%
	Number of global standards, arrangements or initiatives adopted.	3	3	3				
3. Participate in IOSCO and represent the Commission at international meetings concerning commodity regulation.	Number of IOSCO and related international meetings held.	35	35	35	Percentage of IOSCO and related international meeting attended by CFTC.	100%	100%	100%
	Number of IOSCO and related international meetings attended by CFTC.	35	35	35				
4. Participate in the President's Working Group on Financial Markets to ensure coordination of information and efforts among U.S. financial regulators.	Number of President's Working Group meetings held (includes Steering Committee meetings).	24	24	24	Percentage of President's Working Group meetings attended by CFTC.	100%	100%	100%
	Number of President's Working Group meetings attended (includes Steering Committee meetings).	24	24	24	Percentage of President's Working Group recommendations implemented.	100%	100%	100%
					Percentage of assignments/tasks to CFTC completed.	100%	100%	100%
5. Provide exemptive, interpretive, or other relief as appropriate to foster the development of innovative transactions, trading systems, and similar arrangements.	Number of requests for exemptive, interpretive, or other relief.	454	475	475	Percentage of total requests receiving CFTC responses.	93%	92%	92%
	Number of CFTC responses to such requests.	424	435	435				
	Average response time.	5 wks.	5 wks.	5 wks.				

<b>Outcome Objective 3.4</b>								
<b>Promote markets free of trade practice abuses.</b>								
<b>Annual Performance Goal</b>								
No trade practice abuses.								
<b>Activity/Strategy</b>	<b>Output Measure 1/</b>	<b>Actual FY02</b>	<b>FY03</b>	<b>FY04</b>	<b>Outcome Measure 1/</b>	<b>Actual FY02</b>	<b>FY03</b>	<b>FY04</b>
1. Identify possible trade practice violations for investigation and possible enforcement proceedings.	Number of trade practice investigations completed.	142	90	TBD	Percentage of total possible trade practice investigations identifying possible violations.	11%	27%	10%
	Number of possible trade practice violations referred to SROs and to Division of Enforcement for investigation.	16	24	TBD	Percentage of trade practice investigation referrals to Enforcement and SROs resulting in disciplinary action.	10%	10%	10%

<b>Outcome Objective 3.4 (continued)</b> <b>Promote markets free of trade practice abuses.</b>								
<b>Annual Performance Goal</b> No trade practice abuses.								
Activity/Strategy	Output Measure 1/	Actual FY02	FY03	FY04	Outcome Measure 1/	Actual FY02	FY03	FY04
2. Investigate possible trade practice violations.	Number of such investigations opened during the fiscal year.	10	8	8	Percentage of such investigations that were closed or resulting in CFTC enforcement action within one year of opening.	35%	45%	45%
	Number of investigations closed during the fiscal year.	17	9	8				
	Total number of investigations closed or resulting in enforcement actions during the fiscal year.	17	11	11				
	Number of investigations closed or resulting in enforcement action within one year of opening such investigations.	6	5	5	Such investigations as a percentage of all CFTC enforcement investigations pending at the close of the fiscal year.	11%	11%	11%
	Number of investigations pending at the close of the fiscal year.	13	14	14				
3. Bring cases concerning trade practice violations.	Total number of such cases filed during the fiscal year.	7	4	4	Of the total number of such cases filed during the fiscal year, percentage of such cases filed within one year of the opening of the relevant investigation.	43%	50%	50%
	Number of such cases filed within one year of the opening of the relevant investigation.	3	2	2				
	Number of such cases completed during the fiscal year.	6	4	4	Such cases as a percentage of all CFTC enforcement cases pending at the close of the fiscal year.	10%	10%	10%
	Number of such cases pending at the close of the fiscal year.	16	16	16				
4. Sanction violators.	Number of statutory restraining orders granted.	0	0	0	Percentage of such closed cases that resulted in sanctions.	100%	100%	100%
	Number of preliminary injunctions obtained.	0	0	0				
	Number of permanent injunctions obtained.	0	0	0				
	Amount of restitution and disgorgement granted.	\$0	\$0	\$0				
	Amount of civil monetary penalties granted.	\$415k	\$2M	\$1.8M				
	Number of cease and desist orders obtained.	7	5	5				
	Number of requests for registration restrictions granted.	4	4	4				
	Number of requests for trading prohibitions granted.	5	4	5				

1/ Several new output and outcome measures were developed during the FY 2004 budget formulation process. As such, new measurement data must be formulated. In cases where measurement data is not yet available, the acronym TBD, which stands for "to be determined," has been used in one, two, or all three fiscal year columns.

2/ The discrepancy between the amount of civil penalties imposed and the amount collected is accounted for by the following factors: 1) penalties imposed on one year may not become due and payable until the next year; 2) a penalty may be stayed by appeal; 3) some penalties call for installment payments which may span more than one year; 4) delinquencies assessed in default proceedings against respondents who are no longer in business and who cannot be located or are incarcerated; 5) penalties have been referred to the Attorney General for collection; and 6) collection still in process internally.

## FY 2004 Annual Performance Plan

Table 7: All Goals—Summary of Request by Program Activity

	FY 2003		FY 2004		Change	
	\$ (000)	FTE	\$ (000)	FTE	\$ (000)	FTE
Market Oversight	\$15,896	114	\$16,922	100	\$1,026	-14
Clearing & Intermediary Oversight	9,805	68	10,672	60	867	-8
Chief Economist	1,394	9	1,415	8	21	-1
Enforcement	22,269	148	26,341	143	4,072	-5
Proceedings	2,265	15	2,585	14	320	-1
General Counsel	4,991	30	6,121	30	1,130	0
Executive Direction & Support	23,265	157	24,379	134	1,114	-23
<b>TOTAL:</b>	<b>\$79,885</b>	<b>541</b>	<b>\$88,435</b>	<b>489</b>	<b>\$8,550</b>	<b>-52</b>

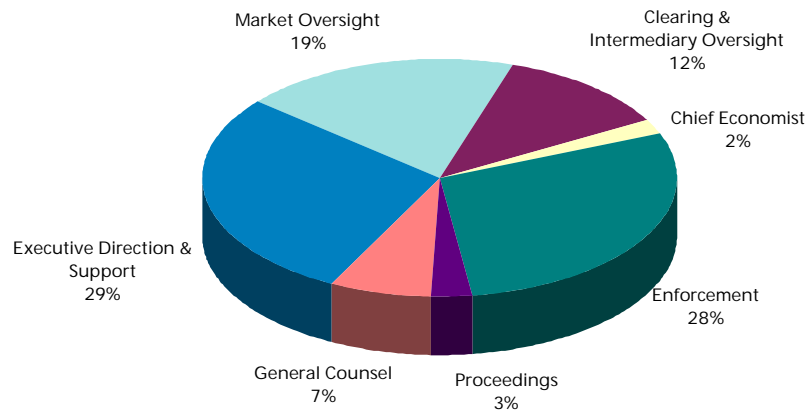


Figure 18: All Goals—FY 2004 Budget Dollars by Program

## Table of Acronyms

AICPA	American Institute of Certified Public Accountants
AP	Associated Person
CEA	Commodity Exchange Act
CFMA	Commodity Futures Modernization Act of 2000
CFTC	Commodity Futures Trading Commission
CMP	Civil Monetary Penalties
COSRA	Council of Securities Regulators of the Americas
CPO	Commodity Pool Operator
CTA	Commodity Trading Advisor
DCO	Derivatives Clearing Organization
DOE	U.S. Department of Energy
DOJ	U.S. Department of Justice
DTEF	Derivatives Transaction Execution Facility
EDBS	Exchange Database System
EMC	Executive Management Council
EMP	Enforcement Modernization Project
FCM	Futures Commission Merchant
FDIC	Federal Deposit Insurance Corporation
FIA	Futures Industry Association
FRB	Board of Governors of the Federal Reserve System
FSAP	Financial Sector Assessment Program
FSF	Financial Stability Forum
GATS	General Agreement on Trade in Services
GISRA	Government Information Security Reform Act
GMAC	Global Markets Advisory Committee
IB	Introducing Broker
IMF	International Monetary Fund
IOSCO	International Organization of Securities Commissions
IPT	Integrated Project Team
ISS	Integrated Surveillance System
MOU	Memorandum/Memoranda of Understanding
NFA	National Futures Association
NIST	National Institute for Standards and Technology
OCE	Office of the Chief Economist (CFTC)
OFM	Office of Financial Management (CFTC)
OGC	Office of the General Counsel
OHR	Office of Human Resources (CFTC)
OIA	Office of International Affairs (CFTC)
OIG	Office of the Inspector General
OIRM	Office of Information Resources Management (CFTC)
OMB	Office of Management and Budget
OTC	Over-the-Counter (Derivatives)
PBSC	Performance-based Service Contract
RFA	Registered Futures Association
RWG	Registration Working Group
SEC	Securities and Exchange Commission
SIA	Securities Industry Association
SPAN	Standard Portfolio Analysis of Risk Margin Systems
SRO	Self-Regulatory Organization
TIMS	Theoretical Intermarket Margin System
UCG	Unified Clearing Group
USDA	United States Department of Agriculture

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